



Multnomah County Oregon

Board of Commissioners & Agenda

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BOARD OF COMMISSIONERS

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SEPTEMBER 18, 2003

BOARD MEETING

FASTLOOK AGENDA ITEMS OF INTEREST

Pg 2	9:30 a.m. Opportunity for Public Comment on Non-Agenda Matters
Pg 3	9:30 a.m. Healthy Start Program Briefing
Pg 3	10:00 a.m. First Reading of a Proposed Ordinance Amending West Hills Rural Area Plan Map and Sectional Zoning Map
Pg 3	10:10 a.m. Resolution Authorizing Immediate Possession of Real Property for the Purpose of Maintaining and Operating NW Miller Road
Pg 3	10:20 a.m. Resolution Approving Facilities Project Plan for Elections Building
Pg 3	10:30 a.m. PCRB Exemption Order

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Thursday, September 18, 2003 - 9:30 AM
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

REGULAR MEETING

CONSENT CALENDAR - 9:30 AM

DEPARTMENT OF COUNTY HUMAN SERVICES

- C-1 Government Omnibus Revenue Contract (190 Agreement) 0410481 with the City of Portland, Funding McKinney Special Needs Housing Program for People with Developmental Disabilities

OFFICE OF SCHOOL AND COMMUNITY PARTNERSHIPS

- C-2 Government Expenditure Contract (190 Agreement) 4600004435 with Multnomah Education Service District, for Participation in the School Attendance Initiative

DEPARTMENT OF BUSINESS AND COMMUNITY SERVICES

- C-3 RESOLUTION Authorizing Private Sale of Certain Tax Foreclosed Property to Richard A. and Mary P. Jacobsen
- C-4 Government Revenue Contract (190 Agreement) 0410482 with the Housing Authority of Portland, Providing Fleet Maintenance and Fueling Services
- C-5 Government Revenue Contract (190 Agreement) 0310531 with the State of Oregon Department of Transportation, Providing Funds for the Sandy Boulevard - Bridge Street (UPRR Under Xing) Preliminary Engineering and Right of Way Acquisition
- C-6 Government Revenue Contract (190 Agreement) 0310532 with the State of Oregon Department of Transportation, Providing Federal Funds for Burnside Bridge Main Span Rehabilitation

REGULAR AGENDA - 9:30 AM

PUBLIC COMMENT - 9:30 AM

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

**COMMISSION ON CHILDREN, FAMILIES AND COMMUNITY AND
DEPARTMENT OF HEALTH - 9:30 AM**

- R-1 Briefing on the Healthy Start Program. Presented by Wendy Lebow, Fred King, Diane Ruminski and Jan Wallinder. 30 MINUTES REQUESTED.

DEPARTMENT OF BUSINESS AND COMMUNITY SERVICES - 10:00 AM

- R-2 First Reading of an ORDINANCE Amending the Multnomah County West Hills Rural Area Plan Map and Sectional Zoning Map to Change the Plan and Zoning Designation of a 9.29 Acre Property from Exclusive Farm Use (EFU) to Commercial Forest Use (CFU-2)
- R-3 RESOLUTION Authorizing Condemnation and Immediate Possession of Real Property Necessary for the Purpose of Maintaining and Operating NW Miller Road
- R-4 RESOLUTION Approving the Project Plan for a Major Facilities Capital Project in the Amount of \$1,875,000 as Required by Resolution 02-136 for the Combined Upgrade Project Proposed for the County-Owned Elections Building Located at 1040 SE Morrison Street, Portland

PUBLIC CONTRACT REVIEW BOARD - 10:30 AM

(Recess as the Multnomah County Board of Commissioners and convene as the Public Contract Review Board)

- R-5 ORDER Approving Exemption from the Formal Bid Process a Contract for a Construction Manager/General Contractor (CM/GC) for the Elections Building Combined Upgrade Project

(Adjourn as the Public Contract Review Board and reconvene as Multnomah County Board of Commissioners)

NON-DEPARTMENTAL - 10:35 AM

- R-6 RESOLUTION Consenting to Chair Appointment of Mary (Molly) Raphael as Director of the Multnomah County Library

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: September 18, 2003

Agenda Item #: C-1

Est. Start Time: 9:30 AM

Date Submitted: 08/25/03

Requested Date: September 18, 2003

Time Requested: N/A

Department: County Human Services

Division: Developmental Disabilities

Contact/s: Rex Surface/Erin Schroetke

Phone: 503.988.3658

Ext.: 26353/24782

I/O Address: 26353/24782

Presenters: Consent Calendar

Agenda Title: Intergovernmental omnibus revenue agreement with the City of Portland funding McKinney Special Needs Housing program for people with developmental disabilities.

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

1. **What action are you requesting from the Board? What is the department/agency recommendation?** Approval.
2. **Please provide sufficient background information for the Board and the public to understand this issue.** The Department of County Human Services - Developmental Disabilities Services annually receives a transfer of City of Portland funds for the purchase of human services for homeless programs to include: a) Special Needs/Housing Services - provide assessments of the developmentally disabled to determine services needed for housing stability; provide access to direct one to one independent living assistance; and b) Administration Services - work with providers of services to homeless single adults to ensure good referrals and networking.
3. **Explain the fiscal impact (current year and ongoing).** This revenue agreement will provide the Department with \$40,903.00 for Fiscal Year 03/04.

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

If a budget modification, explain: N/A

- ❖ What revenue is being changed and why?
- ❖ What budgets are increased/decreased?
- ❖ What do the changes accomplish?
- ❖ Do any personnel actions result from this budget modification? Explain.

- ❖ Is the revenue one-time-only in nature?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?

NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)

If a contingency request, explain: N/A

- ❖ Why was the expenditure not included in the annual budget process?
- ❖ What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?
- ❖ Why are no other department/agency fund sources available?
- ❖ Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.
- ❖ Has this request been made before? When? What was the outcome?

If grant application/notice of intent, explain: N/A

- ❖ Who is the granting agency?
- ❖ Specify grant requirements and goals.
- ❖ Explain grant funding detail – is this a one time only or long term commitment?
- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

4. Explain any legal and/or policy issues involved. None.
5. Explain any citizen and/or other government participation that has or will take place. The City of Portland and the County along with the jointly appointed citizen oversight committee and the Housing and Community Development Commission agree to cooperatively develop and maintain services and housing for persons who are homeless.

Required Signatures:

Department/Agency Director: *Patricia K. Pate*

Date: 08/20/03

Budget Analyst:

Date:

Dept/Countywide HR:

Date:

MULTNOMAH COUNTY CONTRACT APPROVAL FORM

(See Administrative Procedure CON-1)

Contract #: 0410481

Pre-approved Contract Boilerplate (with County Attorney signature) ☐ Attached ☐ Not Attached

Amendment #: 0

Class I	Class II	Class III A
Contracts \$75,000 and less per 12 month period	Contracts over \$75,000 per 12 month period	<input type="checkbox"/> Government Contracts (190 Agreement)
<input type="checkbox"/> Professional Services Contracts <input type="checkbox"/> PCRB Contracts <input type="checkbox"/> Maintenance Agreements <input type="checkbox"/> Licensing Agreements <input type="checkbox"/> Public Works Construction Contracts <input type="checkbox"/> Architectural & Engineering Contracts <input type="checkbox"/> Revenue Contracts <input type="checkbox"/> Grant Contracts <input type="checkbox"/> Non-Expenditure Contracts	<input type="checkbox"/> Professional Services Contracts <input type="checkbox"/> PCRB Contracts <input type="checkbox"/> Maintenance Agreements <input type="checkbox"/> Licensing Agreements <input type="checkbox"/> Public Works Construction Contracts <input type="checkbox"/> Architectural & Engineering Contracts <input type="checkbox"/> Revenue Contracts <input type="checkbox"/> Grant Contracts <input type="checkbox"/> Non-Expenditure Contracts	<div style="display: flex; justify-content: space-between;"> <input type="checkbox"/> Expenditure <input type="checkbox"/> Non-Expenditure </div> <input type="checkbox"/> Revenue
		Class III B
		<input checked="" type="checkbox"/> Government Contracts (Non-190 Agreement)
		<div style="display: flex; justify-content: space-between;"> <input type="checkbox"/> Expenditure <input type="checkbox"/> Non-Expenditure </div> <input checked="" type="checkbox"/> Revenue
		<input type="checkbox"/> Interdepartmental Contracts

Department: <u>County Human Services</u>	Division: <u>Developmental Disabilities</u>	Date: <u>August 14, 2003</u>
Originator: <u>Rex Surface</u>	Phone: <u>26353</u>	Bldg/Rm: <u>166/4</u>
Contact: <u>Tom Ochirero/Erin Schroetke</u>	Phone: <u>29832/24782</u>	Bldg/Rm: <u>166/4</u>

Description of Contract **Omnibus revenue agreement with the City of Portland funding McKinney Special Needs Housing program for people with developmental disabilities.**

RENEWAL: <input type="checkbox"/>	PREVIOUS CONTRACT #(S): <u>0310338</u>
RFP/BID: _____	RFP/BID DATE: _____
EXEMPTION # <u>IGA</u>	
EFFECTIVE DATE: _____	EXPIRATION DATE: _____
CONTRACTOR IS: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> ESB <input type="checkbox"/> QRF State Cert# or <input type="checkbox"/> Self Cert <input type="checkbox"/> Non-Profit <input checked="" type="checkbox"/> N/A (Check all boxes that apply)	

Contractor City of Portland, Bureau of Housing and Community Development	
Address <u>421 SW 6th Ave., Suite 1100</u>	Remittance Address _____
City/State <u>Portland, OR</u>	(If different) _____
Zip Code <u>97204</u>	Payment Schedule / Terms
Phone <u>503.823.2375</u>	<input type="checkbox"/> Lump Sum \$ _____ <input type="checkbox"/> Due on Receipt
Employer ID# or SS# <u>93-6002236</u>	<input type="checkbox"/> Monthly \$ _____ <input checked="" type="checkbox"/> Net 30
Contract Effective Date <u>July 1, 2003</u>	<input type="checkbox"/> Other \$ _____ <input type="checkbox"/> Other
Term Date <u>June 30, 2004</u>	
Amendment Effect Date _____	<input type="checkbox"/> Requirements Funding Info:
Original Contract Amount \$ <u>40,903.00</u>	Original Requirements Amount \$ _____
Total Amt of Previous Amendments \$ <u>0</u>	Total Amt of Previous Amendments \$ _____
Amount of Amendment \$ <u>0</u>	Requirements Amount Amendment: \$ _____
Total Amount of Agreement \$ <u>40,903.00</u>	Total Amount of Requirements \$ _____

REQUIRED SIGNATURES

Department Manager <u>Patricia K. Tate</u>	DATE <u>8-20-2003</u>
Purchasing Manager _____	DATE _____
County Attorney <u>Patricia W. Herry</u>	DATE <u>8/26/03</u>
County Chair _____	DATE <u>9-18-03</u>
Sheriff _____	DATE _____
Contract Administration _____	DATE _____

SAP CUSTOMER CODE 300043				DEPT REFERENCE		
LINE #	FM FUND	CFDA #	G/L ACCOUNT	WBS CODE	REVENUE DESCRIPTION	AMOUNT
01	20621	14.235	50195	DD CLT MCK	McKinney Special Needs/Housing Services	\$39,905.00
02	20621	14.235	50195	DD CLT MCK	Administration for Services	\$998.00
TOTAL						\$40,903.00

CITY AGREEMENT NO.

COUNTY CONTRACT NO. 0410481

**OMNIBUS CONTRACT BETWEEN
CITY OF PORTLAND, BUREAU OF HOUSING AND COMMUNITY DEVELOPMENT
AND
MULTNOMAH COUNTY DEPARTMENT OF COUNTY HUMAN SERVICES**

This agreement for services (AGREEMENT) is between the CITY OF PORTLAND, acting through its BUREAU OF HOUSING AND COMMUNITY DEVELOPMENT (CITY) and MULTNOMAH COUNTY, acting through its DEPARTMENT OF COUNTY HUMAN SERVICES (COUNTY).

This Agreement consists of the following sections:

Part A: Agreement	Page 1
Table A: Contracted Service Programs	Page 2
Part B: General Terms and Conditions	Page 3
Exhibits: Program Descriptions	Page 10

PART A: AGREEMENT

1. **DESCRIPTION OF SERVICES:** County will provide the services included in Table A: Contracted Service Programs and the related Exhibits.
2. **COMPENSATION:** City shall pay County quarterly for provision of services, upon receipt of invoice documenting expenditures and a service report for each program included in this Agreement, as described in the Exhibits. Total compensation under this Agreement shall not exceed \$40,903.
3. **TERM:** County's services will begin on July 1, 2003, and terminate when completed, but no later than June 30, 2004.

In witness whereof, the parties hereto have caused this Agreement to be executed by their authorized officers.

MULTNOMAH COUNTY, OREGON

CITY OF PORTLAND

BY Patricia K. Pate 8-20-2003
 Patricia Pate Date
 Director, Dept. of County Human Services

BY _____
 Commissioner Erik Sten Date
 Commissioner of Public Works

BY Diane Linn 9-18-07
 Diane Linn, Multnomah County Chair Date

REVIEWED:

APPROVED AS TO FORM:

Patrick W. Henry 8/26/03
 County Counsel for Date
 Multnomah County, Oregon

By _____
 Date

By _____
 Jeffrey L. Rogers, City Attorney Date

APPROVED MULTNOMAH COUNTY
 BOARD OF COMMISSIONERS
 AGENDA # C-1 DATE 09-18-03
 DEB BOGSTAD, BOARD CLERK

TABLE A: CONTRACTED SERVICE PROGRAMS

CONTRACT No.:

Program	Funding Source	Funding Level	Exhibit	BHCD Contact
HOMELESS PROGRAMS				\$40,903
Special Needs/Housing Services	McKinney - SHP	MCO/Housing Srvs: \$39,905	A	Heather Lyons
Administration for Services	McKinney - SHP	Administration: \$998		
TOTAL:				\$40,903

PART B: GENERAL TERMS AND CONDITIONS

1. **FUNDS AVAILABLE**. City certifies that sufficient funds are available and authorized to finance the costs of this Agreement. In the event that funds cease to be available to City in the amounts anticipated, City may terminate or reduce contract funding or change the scope of services accordingly. City will notify County as soon as it receives notification from funding source.
2. **INDEPENDENT CONTRACTOR STATUS**. City is engaged as an independent contractor and will be responsible for any federal, state, or local taxes and fees applicable to payments for services under this agreement. The County and its subcontractors and employees are not employees of the City and are not eligible for any benefits through the City, including, without limitation, federal social security, health benefits, workers compensation, unemployment compensation, and retirement benefits.
3. **CONFLICTS OF INTEREST**. No City officer or employee, during his or her tenure or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. No board of commissioner members or employees of the County, during his or her tenure or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. No City officer or employee who participated in the award of this Agreement shall be employed by the County during the Agreement. On CDBG-funded projects, the County shall further comply with the conflict of interest provisions cited in 24 CFR 570.611.
4. **SUBCONTRACTS AND ASSIGNMENT**. County shall not subcontract its work under this Agreement, in whole or in part, without the written approval of the City. The County shall require any approved subcontractor to agree, as to the portion subcontracted, to fulfill all obligations of the County as specified in this Agreement, including being responsible for adhering to all regulations cited within this Agreement. Notwithstanding City approval of a subcontractor, the County shall remain obligated for full performance hereunder, and the City shall incur no obligation other than its obligations to the County hereunder. The County agrees that if subcontractors are employed in the performance of this contract, the County and its subcontractors are subject to the requirements and sanctions of ORS Chapter 656, Workers Compensation. The County shall not assign this contract in whole or in part or any right or obligation hereunder, without prior written approval of the City.
5. **WORKERS' COMPENSATION INSURANCE**
 - A. The County, its subcontractors, if any, and all employers working under this Agreement are subject employers under the Oregon workers compensation law and shall comply with ORS 656.017, which requires them to provide workers compensation coverage for all their subject workers. A certificate of insurance, or copy thereof, shall be attached to this Agreement as Attachment A, if applicable, and shall be incorporated herein and made a term and a part of this Agreement. The County further agrees to maintain workers compensation insurance coverage for the duration of this Agreement.
 - B. If the County's worker's compensation insurance coverage is due to expire during the term of this Agreement, the County agrees to timely renew its insurance, either as a carrier-insured employer or a self-insured employer as provided by Chapter 656 of the Oregon Revised Statutes, before its expiration, and the County agrees to provide the City of Portland such further certification of workers compensation insurance as renewals of said insurance occur.

C. The County agrees to accurately complete the City of Portland's Questionnaire for Workers Compensation Insurance and Qualification as an Independent County prior to commencing work under this Agreement. Questionnaire is attached to this Agreement as Attachment B and shall remain attached to this Agreement and become a part thereof as if fully copied herein. Any misrepresentation of information on the Questionnaire by the County shall constitute a breach of this Agreement. In the event of breach pursuant to this subsection, City may terminate the Agreement immediately and the notice requirement contained in subsection (9), **EARLY TERMINATION OF AGREEMENT**, hereof shall not apply.

6. **INDEMNIFICATION**. To the extent permitted by Oregon Tort Claim Act and the Oregon Constitution, the County shall hold harmless, defend, and indemnify the City and the City's officers, agents, and employees against all claims, demands, actions, and suits (including all attorney fees and costs) brought against any of them arising from the County's work or any subcontractors work under this Agreement.

7. **LIABILITY INSURANCE**. The County is self-insured as provided by Oregon law.

8. **OREGON LAW AND FORUM**. This Agreement shall be construed according to the law of the State of Oregon. Any litigation between the City and the County arising under this contract or out of work performed under this Agreement shall occur, if in the state courts, in the Multnomah County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.

9. **EARLY TERMINATION**.

A. **Termination for Convenience**: In accordance with 24 CFR 85.44, the City and County may terminate this Agreement at any time by mutual written agreement. If the Agreement is terminated by the City as provided herein, the County will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the County covered by this Agreement less payments of compensation previously made.

B. **Termination for Cause**: In accordance with 24 CFR 85.43, if, through any cause, the County shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if the County shall violate any of the covenants, agreements, or stipulations of this Agreement, the city may avail itself of such remedies as cited in 24 CFR 85.43 by giving written notice to the County of such action and specifying the effective date thereof at least 30 days before the effective date of such action. In such event, all finished or unfinished documents, data, studies, and reports prepared by the County under this Agreement shall, at the option of the City, become the property of the City, and the County shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.

Notwithstanding the above, the County shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Agreement by the County, and the City may withhold any payments to the County for the purpose of setoff until such time as the exact amount of damages due the City from the County is determined.

C. **Enforcement and Remedies**: In the event of termination under section B. hereof by the City due to a breach by the County, then the City may complete the work either itself or by agreement with another Subrecipient, or by a combination thereof. In the event the cost of completing the work exceeds the amount actually paid to the County hereunder plus the remaining unpaid balance of the compensation provided herein, then the County shall pay to the City the amount of the excess. Allowable costs shall be determined in accordance with 24 CFR 85.43(c).

The remedies provided to the City and County under sections B and C hereof for a breach shall not be exclusive. The City and County also shall be entitled to any other equitable and legal remedies that are available.

In the event of termination under section B, the City shall provide the County an opportunity for an administrative appeal to the Bureau Director.

10. **AGREEMENT CHANGES**. The City or County may, from time to time, request changes in writing in the scope of services or terms and conditions hereunder. Such changes, including any increase or decrease in the amount of the County's compensation, shall be incorporated in written amendments to this Agreement. Changes to the scope of work, budget line items, timing, reporting, or performance measures may be approved by the Project Manager. Significant changes to the scope of work, performance measures, or compensation must be approved by ordinance of the City Council.

11. **SEVERABILITY**. If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.

12. **INTEGRATION**. This Agreement contains the entire agreement between the City and the County and supersedes all prior written or oral discussions or agreements.

13. **MAINTENANCE AND AUDIT OF RECORDS**. The County shall maintain fiscal records on a current basis to support its billings to the City. The County shall retain fiscal as well as all records relating to program and client eligibility for inspection, audit, and copying for 3 years from the date of completion or termination of this Agreement. The City or its authorized representatives shall have the authority to inspect, audit, and copy on reasonable notice and from time to time any records of the County regarding its billings or its work hereunder.

The City, either directly or through a designated representative, may audit the records of the County at any time during this 3-year period. If an audit discloses that payments to the County were in excess of the amount to which the County was entitled, then the County shall repay the amount of the excess to the City.

14. **MONITORING**. The City, through the Bureau of Housing and Community Development, shall monitor at least once each year that portion of the County's project funded with Community Development Block Grant (CDBG), HOME Investment Partnership Program, or Emergency Shelter Grant (ESG) funds. Such monitoring shall ensure that the operation of the project conforms to the provisions of this Agreement. The County shall monitor each subcontractor at least once a year for that portion of activities funded with City CDBG funds. Such monitoring shall ensure that the operations of the project conforms to the provisions of this Agreement.

15. **ACCESS TO RECORDS**. The City, HUD, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, general organizational and administrative information, documents, papers, and records of County which are directly pertinent to this Agreement for the purpose of making audit or monitoring, examination, excerpts, and transcriptions. All required records must be maintained by County for three years after the City makes final payments and all other pending matters are closed.

16. **REPORTING REQUIREMENTS**. The County shall report on its activities in a format and by such times as prescribed by the City.

17. **PUBLICITY**. Publicity regarding the project shall note participation of the City of Portland through its Bureau of Housing and Community Development.

18. **COMPLIANCE WITH LAWS.** In connection with its activities under this Agreement, the County shall comply with all applicable federal, state, and local laws and regulations. In the event that the County provides goods and services to the City in the aggregate in excess of \$2,500 per fiscal year, the County agrees it has certified with the City's Equal Employment Opportunity certification process. For Community Development Block Grant funded projects, the County shall carry out its activities in compliance with 24 CFR 570 Subpart K, excepting the responsibilities identified in 24 CFR 570.604 and 570.612. For HOME Investment Partnership Program funded projects, the County shall carry out its activities in compliance with 24 CFR Part 92. For McKinney-Vento Supportive Housing Program funded projects, Subrecipient shall carry out its activities in compliance with 24 CFR 583. For McKinney-Vento Emergency Shelter Grant funded projects, Subrecipient shall carry out its activities in compliance with 24 CFR 576.

19. **CONTRACT ADMINISTRATION.** The County shall comply with the applicable provisions of OMB Circular Nos. A-21, A-87, A-110, A-122, A-128, and with applicable provisions of 24 CFR Part 85 as described by 24 CFR 570.502(a) and 570.610.

20. **NONDISCRIMINATION.** During the performance of this Agreement, the County agrees as follows:

A. The County will comply with the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964 (24 CFR 1), Fair Housing Act (24 CFR 100), and Executive Order 11063 (24 CFR 107).

B. The County will comply with prohibitions against discrimination on the basis of age under Section 109 of the Act as well as the Age Discrimination Act of 1975 (24 CFR 146), and the prohibitions against discrimination against otherwise qualified individuals with handicaps under Section 109 as well as Section 504 of the Rehabilitation Act of 1973 (24 CFR 8).

C. The County will comply with the equal employment and affirmative action requirements of Executive Order 11246, as amended by Order 12086 (41 CFR 60).

D. The County will undertake efforts to encourage the use of minority and women's business enterprises as stated in Executive Orders 11625, 12432, and 12138.

E. The County will make known that use of the facilities and services is available to all on a nondiscriminatory basis.

21. **PROGRAM INCOME/PERSONAL PROPERTY.**

A. Program income, with the exception of HOME program income, shall be retained by the County provided that it shall be used only for those activities identified in the Exhibits in this Agreement, and shall be subject to all provisions of this Agreement. Any program income on hand when the Agreement expires or received after such expiration shall be paid to the City. Any program income generated by HOME funded activities must be returned to the City's Local HOME Account to be reprogrammed for HOME eligible activities by the City in accordance with 24 CFR 92.503.

B. Subrecipients who retain and expend program income shall set up a Program income ledger account and establish procedures and internal controls to assure: collection of all program income, accurate classification of funds to be credited, immediate deposit into the proper bank account, and program income disbursement before requesting additional City funds.

C. In all cases in which personal property is sold, the proceeds shall be program income, and personal property not needed by the County for the applicable service program shall be transferred to the City for that funding source program or shall be retained after compensating the City.

D. For Community Development Block Grant funded projects, the County shall comply with provisions of 24 CFR 570.504 regarding program income. When there is program income, transfers of CDBG funds to the county shall be adjusted in accordance with 24 CFR 570.504.

22. **FUND-RAISING.** City-funded dollars may be used to cover expenses directly related to the contracted project. Costs associated with general agency fund-raising activities are not eligible. No Emergency Shelter Grant (ESG) fund dollars may be used to cover expenses associated with general agency fund raising activities not directly related to ESG-funded projects.

23. **EXPIRATION/REVERSION OF ASSETS.**

A. For Community Development Block Grant funded projects, the County shall comply with the Reversion of Assets provision of 24 CFR 570.503(b)(8).

B. For Emergency Shelter Grant funded projects, the County shall transfer to the City any ESG funds on hand at the time of expiration and any accounts receivable attributable to the use of ESG funds. Any real property under the County's control that was acquired or improved in whole or in part with ESG funds in excess of \$25,000 shall be disposed of in a manner which results in the City being reimbursed in the amount of the current fair market value of the property less any portion thereof attributable to expenditures of non-ESG funds for acquisition of, or improvement to, the property. Such reimbursement is not required after a five-year period after expiration of this Agreement.

The County shall require that the language of this certification be included in the award documents at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreement) and that all subcontractors shall certify and disclose accordingly.

24. **LABOR STANDARDS.** The County agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, the provisions of Contract Work Hours, the Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276, 327-333) and all other applicable federal, state, and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The County shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City of Portland for review upon request.

The County agrees that, except with respect to the rehabilitation or construction of residential property designed for residential use for less than eight (8) households, all Subrecipients engaged under contracts in excess of \$2,000 for construction, renovation, or repair of any building or work financed in whole or in part with assistance provided under this Agreement, shall comply with federal requirements adopted by the City of Portland pertaining to such agreements and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR, Parts 3,15 and 7 governing the payment of wages and ratio of apprentices and trainees to journeymen; provided that if wage rates higher than those required under regulations are imposed by state or local law, nothing hereunder is intended to relieve the County of its obligation, if any, to require payment of the higher wage. The County shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph, for such contracts in excess of \$10,000.

25. **MINIMIZING DISPLACEMENT**. The County assures that it will take all reasonable steps to minimize the displacement of persons as a result of this Agreement, and shall comply with the applicable provisions of 24 CFR 570.606 or 576.80.

26. **PROGRAM ACCESS BY THE DISABLED**. The County shall, to the maximum feasible extent, follow the Bureau of Housing and Community Development's guidelines on ensuring interested persons can reasonably obtain information about, and access to, HUD-funded activities.

27. **FLOOD DISASTER PROTECTION**. County agrees to comply with the requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234) in regard to the sale, lease, or other transfer of land acquired, cleared, or improved under the terms of this Agreement, as it may apply to the provisions of this Agreement.

28. **LEAD-BASED PAINT POISONING**. The County agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608 and 24 CFR Part 35, and in particular, Sub-Part B thereof. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants or properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain symptoms, treatment, and precautions that should be taken when dealing with lead-based paint poisoning.

29. **LOBBYING FOR FUNDS**. No federal appropriated funds have been paid or will be paid, by or on behalf of the County, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the SUBRECIPIENT agrees to complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

The County shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreement) and that all subcontractors shall certify and disclose accordingly.

30. **CHURCH/STATE**. The County agrees to comply with the applicable provisions of 24 CFR 570.200(j) or 24 CFR 576.22 regarding the use of federal funds by religious organizations.

31. **TARGETING**. The City will be designating Target Areas, which are to receive focused services for the fiscal year. As appropriate, the County will provide intensive marketing and outreach to the designated areas, will collect data on all activities in the areas including numbers served, and will report on efforts in the area according to Agreement's provisions on Reporting Requirements.

32. **SECTION 3/TRAINING**. County will comply with the training and employment guidelines of Section 3 of the Housing and Urban Development Act of 1968, as amended, (12 U.S.C. 1701a) and regulations pursuant thereto (24 CFR Part 135). The Bureau of Housing and Community Development will provide training for Subrecipients. All Subrecipients are required to attend general training on City and Federal requirements and other project specific training as appropriate.

33. **INTEGRATED DISBURSEMENT AND INFORMATION SYSTEM.** During the term of this contract, the City of Portland will be switching billing and reporting systems to HUD's Integrated Disbursement and Information System (IDIS). This switch will require changes in the way the County bills and reports to the City about these projects. Affected County program and fiscal staff will attend training in 90 in order to become more knowledgeable about IDIS and to comply with new City processes.

EXHIBIT A
MULTNOMAH COUNTY: Developmentally Disabled Services
Special Needs McKinney Continuum of Care SHP funds

I. AUTHORITY

The provision of services and housing options, including emergency shelter, is a major goal of the City of Portland and part of the City of Portland Consolidated Plan. The City has Stuart B. McKinney Supportive Housing funds, which can be used for shelter and support services for persons who are homeless. Multnomah County, through its Department of Community and Family Services, administers a variety of housing and service programs for persons who are homeless. The City and the County, through their jointly appointed citizen oversight committee - the Housing and Community Development Commission - agree to cooperatively develop and maintain services and housing for persons who are homeless.

II. SCOPE OF SERVICES

- A. Provide assessments of developmentally disabled individuals to determine services needed to achieve housing stability
- B. Provide access to direct one-to-one independent living assistance
- C. Work with providers of services to homeless single adults to ensure good referrals and networking.

III. PERFORMANCE MEASURES

- A. Subrecipient will track and report on the achievement of the following during the period of this agreement:
 - At least 35 individuals will be served.
 - At least 30 individuals will maintain stable housing during the program and graduate (86%).
 - At least 27 individuals will maintain permanent housing for 6 months after exiting the program (77%).
 - At least 23 individuals will maintain permanent housing 12 months after exiting the program (65%).
 - Number and percent of individuals who graduate and have sustained support for 12 months (50%).
 - Number and percent of individuals who start part-time employment or an alternative to employment (10%).
 - Number and percent of individuals served who report improved access to better health and personal safety (70%).
 - Number and percent of individuals served who report improved quality of life (80%).

IV. REPORTING REQUIREMENTS

- A. **Quarterly Reports:** Except as provided by subsection C. below, County will provide the City with quarterly performance within thirty (30) days from the end of each quarter in a form consistent with Tables A-1 and A-2. Quarterly reports shall include: 1) number of clients (unduplicated) served; 2) hours of service provided; 3) gender and ethnic/racial data and 4) narrative regarding points of interest or issues.
- B. Subrecipient will complete a draft HUD required **Annual Progress Report** (Attachment A) to the City of Portland by **July 31, 2004**

- C. **Final Reports:** County shall submit a final report as its fourth quarter report. The final report shall include:
1. Number of individuals served
 2. Hours of service provided
 3. Client demographics including race, ethnicity, and sex of all recipients of services
 4. Performance data related to Section III.

V. COMPENSATION AND METHOD OF PAYMENT

- A. The Subrecipient will be compensated for the above described services. The payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment, and incidentals necessary to perform the work and service. \$39,905 is for direct services and \$998 is for administrative costs.
- B. No funds under this Agreement may be used to purchase non-expendable personal property or equipment, either by the Subrecipient or any subcontractors with whom the Subrecipient enters into agreements without prior written permission from the City Project Manager. Funds may be used to pay for lease or rental costs of equipment, prorated to reflect the use of said equipment by City-funded programs.
- C. It is agreed that total compensation under this agreement shall not exceed FORTY THOUSAND NINE HUNDRED AND THREE DOLLARS (\$40,903) OF MCKINNEY SUPPORTIVE HOUSING FUNDS.

VI. City Project Manager

- A. The City Project Manager shall be Heather Lyons, or such person as shall be designated in writing by the Director of the Bureau of Housing and Community Development.
- B. The City Project Manager is authorized to approve work and billings hereunder, to give notices referred to herein, to terminate this agreement as provided herein, and to carry out all other City actions referred to herein.

TABLE A-1
Project Report for Multnomah County, Developmental Disabilities, McKinney Special Needs SHP
BENEFICIARY DATA

Reporting Period From: _____ To: _____

Participant Information	1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter	YTD
Households/Individuals					

1. Gender

Males					
Females					
Gender Total*					

2. Race

Ethnicity	Hisp anic	Non H	Hisp anic	Non H	Hisp anic	Non H	Hisp anic	Non H	Hisp anic	Non H
White										
Black/African American										
Asian										
American Indian/Alaskan Native										
Native Hawaiian/Other Pacific Islander										
American Indian/Alaskan Native & White										
Asian & White										
Black/African American & White										
Am. Indian/Alaskan Native & Black/African American										
Other										
Total*										

3. Age

0-18					
18-21					
21-30					
21-50					
Over 51					
Age Total*					

4. Other Characteristics

Veteran					
Employed					
Female Headed Households					
Disabled/Special Needs					

***Totals Should Equal**

TABLE A-2
Project Report for Multnomah County, Developmental Disabilities, McKinney Special Needs SHP
Outcome and Reporting Data
Reporting Period From: _____ To: _____

Agency Specific

	1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter	YTD
# of unduplicated Households/Individuals Served					**
At least 30 individuals will maintain stable housing during the program and graduate (86%)					
At least 27 individuals will maintain permanent housing for 6 months after exiting the program (77%)					
At least 23 individuals will maintain permanent housing 12 months after exiting the program (65%)					
Number and percent of individuals who graduate and have sustained support for 12 months (50%)					
Number and percent of individuals who start part-time employment or an alternative to employment (10%)					
Number and percent of individuals served who report improved access to better health and personal safety (70%)					
Number and percent of individuals served who report improved quality of life (80%)					

**Unduplicated YTD may not necessarily match the sum of the quarterly unduplicated count, since one client may be served in more than one quarter.

Narrative:

On a separate page, please include as applicable:

- Information regarding the program specific for the quarter that explains changes in performance
- Any other useful information

ATTACHMENT A

**U. S. Department of Housing
and Urban Development
Office of Community Planning
and Development**

OMB Approval No. 2506-0145 (exp.4/30/2003)

Annual Progress Report (APR)

for

Supportive Housing Program

Shelter Plus Care

and

**Section 8 Moderate Rehabilitation
for Single Room Occupancy
Dwellings (SRO) Program**

Grantee:	
Project Sponsor:	Project Name:
Operating Year: (Circle the operating year being reported on) <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 6 <input type="checkbox"/> 7 <input type="checkbox"/> 8 <input type="checkbox"/> 9 <input type="checkbox"/> 10 <input type="checkbox"/> 11 <input type="checkbox"/> 12 <input type="checkbox"/> 13 <input type="checkbox"/> 14 <input type="checkbox"/> 15 <input type="checkbox"/> 16 <input type="checkbox"/> 17 <input type="checkbox"/> 18 <input type="checkbox"/> 19 <input type="checkbox"/> 20	
Reporting Period:	
Indicate if extension: <input type="checkbox"/> Yes <input type="checkbox"/> No Indicate if renewal: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Previous Grant Numbers for this project:	

Check the component for the program on which you are reporting.

Supportive Housing Program (SHP)	Shelter Plus Care (S+C)	Section 8 Moderate Rehabilitation
<input type="checkbox"/> Transitional Housing	<input type="checkbox"/> Tenant-based Rental Assistance (TRA)	<input type="checkbox"/> Single Room Occupancy (Sec. 8 SRO)
<input type="checkbox"/> Permanent Housing for Homeless Persons with Disabilities	<input type="checkbox"/> Sponsor-based Rental Assistance (SRA) <input type="checkbox"/> Project-based Rental Assistance (PRA)	
<input type="checkbox"/> Safe Haven	<input type="checkbox"/> Single Room Occupancy (SRO)	
<input type="checkbox"/> Innovative Supportive Housing		
<input type="checkbox"/> Supportive Services Only		

Summary of the project: (One or two sentences with a description of population, number served and accomplishments this operating year)

This grant provides transitional housing to a population of homeless single adults. Some of the adults live with spouses, partners or roommates, but none have children with them. During the program year 101 people were served in this program.

Name & Title of the Person who can answer questions about this report:	Phone: (include area code)
Address:	
Fax Number: (include area code)	

I hereby certify that all the information stated herein is true and accurate.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name & Title of Authorized Grantee Official:	Signature & Date:
X	
Name and Title of Authorized Project Sponsor Official:	Signature & Date:
X	

Part I: Project Progress

1. **Projected Level of Persons to be served at a given point in time.** (from the application, SHP- Sec. F; SPC- Sec. C; SRO- Sec. D)

	Projected Level	Number of Singles Not in Families	Number of Adults in Families	Number of Children in Families	Number of Families
a.	Persons to be served at a given point in time				

2. **Persons Served during the operating year.**

		Number of Singles Not in Families	Number of Adults in Families	Number of Children in Families	Number of Families
a.	Number on the first day of the operating year				
b.	Number entering program during the operating year				
c.	Number who left the program during the operating year				
d.	Number in the program on the last day of the operating year (a + b - c) = d				

3. **Project Capacity.**

		Number of Singles Not in Families	Number of Adults in Families	Number of Children in Families	Number of Families
a.	Number on the last day (from 2d, columns 1 and 4)				
b.	Number proposed in application (from 1a, columns 1 and 4)				
c.	Capacity Rate (divide a by b) = %				

4. **Non-homeless persons.** This question is to be completed for Section 8 SRO projects.

How many income-eligible non-homeless persons were housed by the SRO program during the operating year?	N/A
---	-----

5. **Age and Gender.** Of those who entered the project during the operating year, how many people are in the following age and gender categories?

Single Persons (from 2b, column 1)		Age	Male	Female
	a.	62 and over		
	b.	51-61		
	c.	31-50		
	d.	18-30		
	e.	17 and under		
Persons in Families (from 2b, columns 2 & 3)	f.	62 and over		
	g.	51 - 61		
	h.	31 - 50		
	i.	18 - 30		
	j.	13-17		
	k.	6-12		
	l.	1-5		
	m.	Under 1		

Answer questions 6 - 10 only for **participants who entered the project during the operating year** (from 2b, columns 1 & 2). The term **participant** means single persons and adults in families. It does not include children or caregivers. NOTE: The total for questions, 7, 8 and 10 below should be the same; respond to each of those questions for all participants.

6. **Veterans Status.** A veteran is anyone who has ever been on active military duty status.

How many participants were veterans?

7. **Ethnicity.** How many participants are in the following ethnic categories?

a.	Hispanic or Latino	
b.	Non-Hispanic or Non-Latino	

8. **Race.** How many participants are in the following racial categories?

a.	American Indian or Alaskan Native	
b.	Asian	
c.	Black or African American	
d.	Native Hawaiian or Other Pacific Islander	
e.	White	

9. **Special Needs.** How many participants have the following? Participants may have more than one. If so, count them in all applicable categories.

a.	Mental illness	
b.	Alcohol abuse	
c.	Drug abuse	
d.	HIV/AIDS and related diseases	
e.	Developmental disability	
f.	Physical disability	
g.	Domestic violence	
h.	Other (please specify)	

10. **Prior Living Situation.** How many participants slept in the following places in the week prior to entering the project? (Choose one)

a.	Non-housing (street, park, car, bus station, etc.)	
b.	Emergency shelter	
c.	Transitional housing for homeless persons	
d.	Psychiatric facility*	
e.	Substance abuse treatment facility*	
f.	Hospital*	
g.	Jail/prison*	
h.	Domestic violence situation	
i.	Living with relatives/friends	
j.	Rental housing	
k.	Other (please specify)	

*If a participant came from an institution but was there less than 30 days and was living on the street or in emergency shelter before entering the treatment facility, he/she should be counted in either the street or shelter category, as appropriate.

Complete questions 11 - 15 for all participants who left during the operating year (from 2c, columns 1 and 2). The term participant means single persons and adults in families. It does not include children or caregivers.

11. **Amount and Source of Monthly Income at Entry and at Exit.** Of those participants who left during the operating year, how many participants were at each monthly income level and with each source of income?

	A. Monthly Income at Entry	
a.	No income	
b.	\$1-150	
c.	\$151 - \$250	
d.	\$251- \$500	
e.	\$501 - \$1,000	
f.	\$1001- \$1500	
g.	\$1501- \$2000	
h.	\$2001 +	

	C. Income Sources at Entry	
a.	Supplemental Security Income (SSI)	
b.	Social Security Disability Income (SSDI)	
c.	Social Security	
d.	General Public Assistance	
e.	Temporary Aid to Needy Families (TANF)	
f.	Child Support	
g.	Veterans Benefits	
h.	Employment Income	
i.	Unemployment Benefits	
j.	Medicare	
k.	Medicaid	
l.	Food Stamps	
m.	Other (please specify)	
n.	No Financial Resources	

	B. Monthly Income at Exit	
a.	No income	
b.	\$1-150	
c.	\$151 - \$250	
d.	\$251- \$500	
e.	\$501 - \$1,000	
f.	\$1001- \$1500	
g.	\$1501- \$2000	
h.	\$2001 +	

	D. Income Sources at Exit	
a.	Supplemental Security Income (SSI)	
b.	Social Security Disability Income (SSDI)	
c.	Social Security	
d.	General Public Assistance	
e.	Temporary Aid to Needy Families (TANF)	
f.	Child Support	
g.	Veterans Benefits	
h.	Employment Income	
i.	Unemployment Benefits	
j.	Medicare	
k.	Medicaid	
l.	Food Stamps	
m.	Other (please specify)	
n.	No Financial Resources	

12. Length of Stay in Program. Of those participants who left during the operating year (from 2c, columns 1 and 2), how many were in the project for the following lengths of time?

a.	Less than 1 month	
b.	1 to 2 months	
c.	3 - 6 months	
d.	7 months - 12 months	
e.	13 months - 24 months	
f.	25 months - 3 years	
g.	4 years - 5 years	
h.	6 years - 7 years	
i.	8 years - 10 years	
j.	Over 10 years	

13. Reasons for Leaving. Of those participants who left the project during the operating year (from 2c, columns 1 and 2), how many left for the following reasons? If a participant left for multiple reasons, *include only the primary reason.*

a.	Left for a housing opportunity before completing program	
b.	Completed program	
c.	Non-payment of rent/occupancy charge	
d.	Non-compliance with project	
e.	Criminal activity / destruction of property / violence	
f.	Reached maximum time allowed in project	
g.	Needs could not be met by project	
h.	Disagreement with rules/persons	
i.	Death	
j.	Other (please specify)	
k.	Unknown/disappeared	

14. **Destination.** Of those participants who left during the operating year (from 2c, columns 1 and 2), how many left for the following destination?

PERMANENT (a-h)	a.	Rental house or apartment (no subsidy)	
	b.	Public Housing	
	c.	Section 8	
	d.	Shelter Plus Care	
	e.	HOME subsidized house or apartment	
	f.	Other subsidized house or apartment	
	g.	Homeownership	
	h.	Moved in with family or friends	
TRANSITIONAL (i-j)	i.	Transitional housing for homeless persons	
	j.	Moved in with family or friends	
INSTITUTION (k-m)	k.	Psychiatric hospital	
	l.	Inpatient alcohol or other drug treatment facility	
	m.	Jail/prison	
EMERGENCY SHELTER (n)	n.	Emergency shelter	
OTHER (o-q)	o.	Other supportive housing	
	p.	Places not meant for human habitation (e.g. street)	
	q.	Other (please specify)	
UNKNOWN	r.	Unknown	

15. **Supportive Services.** Of those participants who left during the operating year (from 2, columns 1 and 2), how many received the following supportive services during their time in the project?

a.	Outreach	
b.	Case management	
c.	Life skills (outside of case management)	
d.	Alcohol or drug abuse services	
e.	Mental health services	
f.	HIV/AIDS-related services	
g.	Other health care services	
h.	Education	
i.	Housing placement	
j.	Employment assistance	
k.	Child care	
l.	Transportation	
m.	Legal	
n.	Other (please specify) client assistance	

16. Overall Program Goals. Under Objectives, list your measurable objectives for this operating year (from your application, Technical

Submission, or APR) for each of the three goals listed below. Under Progress, describe your progress in meeting the objectives. Under Next Operating Year's Objectives, specify the measurable objectives for the next operating year.

a. Residential Stability

Objectives:

Progress:

Next Operating Year's Objectives:

b. Increased Skills or Income

Objectives:

Progress:

Next Operating Year's Objectives:

c. Greater Self-determination

Objectives:

Progress:

Next Operating Year's Objectives:

17. Beds. SHP recipients answer 17a. S+C recipients answer 17b. SRO recipients answer 17c. (SHP-SSO projects do not complete this question)

a. **SHP.** How many beds were included in the application approved for *this* project under 'Current Level' and under 'New Effort'?

How many of these New Effort beds were actually in place at the end of the operating year?

	Current Level New Effort in Place	New Effort
Number of Beds:	30	

b. **S+C.** How many beds and dwelling units were being assisted with project funds at the end of the operating year? (Include beds for all participants, other family members, and care givers.)

Number of Beds: _____
Number of Dwelling Units: _____

c. **SRO.** How many dwelling units were being assisted at end of the operating year? (Include units occupied by "in place" non-homeless persons who qualify for assistance.)

Number of Dwelling Units: _____

Part II: Financial Information**18. Supportive Services.**

For Supportive Housing (SHP), this exhibit provides information to HUD on how SHP funding for supportive services was spent **during the operating year**. Enter the amount of SHP funding spent on these supportive services.

For Shelter Plus Care (S+C), this exhibit tracks the supportive services match requirement. Specify the value of supportive services from all sources that can be counted as match that all homeless persons received **during the operating year**. (S+C grantees should keep documentation on file, including source, amount, and type of supportive services.)

For Section 8 SRO, this exhibit provides information to HUD on the value of supportive services received by homeless persons **during the operating year**.

	Supportive Services	Dollars
a.	Outreach	
b.	Case management	
c.	Life skills (outside of case management)	
d.	Alcohol and drug abuse services	
e.	Mental health services	
f.	AIDS-related services	
g.	Other health care services	
h.	Education	
i.	Housing placement	
j.	Employment assistance	
k.	Child care	
l.	Transportation	
m.	Legal	
n.	Other (please specify) client assistance	
o.	TOTAL (Sum of a through n)	0
	Cumulative amount of match provided to date for the Shelter Plus Care Program under this grant	

19. Supportive Housing Program: Leasing, Supportive Services, Operating Costs and Administration

All grantees receiving funding under the Supportive Housing Program must complete these charts each operating year. For **expansion projects**: If SHP grant funds are for the expansion of a pre-existing homeless facility, only the people and expenditures for the additional expansion may be included, as in the original application or any grant amendments.

Documentation of resources used is not required to be submitted with this report but should be kept on file for possible inspection by HUD and Auditors. Do not include any expenditures made before the SHP grant was executed.

Summary of Expenditures. Enter the amount of SHP grant funds and cash match expended during the operating year for each activity.

		SHP Funds	Cash Match	Total Expenditures
a.	Leasing			
b.	Supportive Services			
c.	Operating Costs			
d.	Administration			
e.	Total			

Note: Payments of principal and interest on any loan or mortgage may not be shown as an operating expense.

Sources of Cash Match. Enter the sources of cash identified in the Cash Match column, above, in the following categories. Use additional sheets, as necessary.

		Amount
a.	Grantee/project sponsor cash	
b.	Local government (please specify)	
c.	State government (please specify)	
d.	Federal government (please specify)	
	Community Development Block Grant (CDBG)	
e.	Foundations (please specify)	
f.	Private cash resources (please specify)	
g.	Occupancy charge / fees	
h.	Total	

20. Supportive Housing Program: Acquisition, Rehabilitation, and New Construction

All grantees that received SHP funds for acquisition, rehabilitation, or new construction must complete these charts in the year one APR

only. This exhibit will demonstrate to HUD that the grantee has contributed enough cash to at least equally match the amount of SHP funds spent for acquisition, rehabilitation, or new construction. Documentation that matching funds were provided is not required to be submitted with this report but should be kept on file for possible inspection by HUD and Auditors.

Summary of Expenditures. Enter the amount of SHP grant funds and cash match expended during the operating year for each activity.

		SHP Funds	Cash Match	Total Expenditures
a.	Acquisition			
b.	Rehabilitation			
c.	New construction			
d.	Total			

Cash Match. Enter the sources of cash identified in the Cash Match column, above, in the following categories. Use additional sheets, as necessary.

		Amount
a.	Grantee/project sponsor cash	
b.	Local government (please specify)	
c.	State government (please specify)	
d.	Federal government (please specify)	
	Community Development Block Grant (CDBG)	
e.	Foundations (please specify)	
f.	Private cash resources (please specify)	
g.	Occupancy charge/ fees	
h.	Total	

Describe any problems and/or changes implemented during the operating year.

Technical Assistance and Recommendations

Based on your experience during the last year, are there any areas in which you need technical advice or assistance? If so, please describe.

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: September 18, 2003

Agenda Item #: C-2

Est. Start Time: 9:30 AM

Date Submitted: 08/25/03

Requested Date: Next Available

Time Requested: N/A

Department: Office of School and Community Partnerships

Division: School Linked Svcs.

Contact/s: Bob Lewicki / Chris Kenney

Phone: 503.988.6295

Ext.: 26035 / 86139

I/O Address: 166/2

Presenters: Consent Calendar

Agenda Title: Government Expenditure Contract (190 Agreement) 4600004435 with Multnomah Education Service District for Participation in the School Attendance Initiative

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

-
1. **What action are you requesting from the Board? What is the department/agency recommendation?**
Approval
 2. **Please provide sufficient background information for the Board and the public to understand this issue.**
The goal is to identify at-risk factors and behaviors that are contributing to and/or causing students' truant conduct and provide the necessary resources, interventions and specific services needed to facilitate and ensure students' consistent attendance at school. All students referred for these services will be K-8 students referred by Portland Public Schools, MESD or the County.
 3. **Explain the fiscal impact (current year and ongoing).**
The County will compensate MESD up to 87,383.00 for the period July 1, 2003 through December 31, 2003 for SAI services.

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

If a budget modification, explain:

- ❖ What revenue is being changed and why?
- ❖ What budgets are increased/decreased?
- ❖ What do the changes accomplish?
- ❖ Do any personnel actions result from this budget modification? Explain.
- ❖ Is the revenue one-time-only in nature?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?

NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)

If a contingency request, explain:

- ❖ Why was the expenditure not included in the annual budget process?
- ❖ What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?
- ❖ Why are no other department/agency fund sources available?
- ❖ Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.
- ❖ Has this request been made before? When? What was the outcome?

If grant application/notice of intent, explain:

- ❖ Who is the granting agency?
- ❖ Specify grant requirements and goals.
- ❖ Explain grant funding detail – is this a one time only or long term commitment?
- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

4. Explain any legal and/or policy issues.

N/A

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

Portland Public School will work in conjunction with MESD and the County on the SAI Program.

Required Signatures:

Department/Agency Director:



Date: 08/22/03

Budget Analyst

By: _____

Date:

Dept/Countywide HR

By: _____

Date:

MULTNOMAH COUNTY CONTRACT APPROVAL FORM

(See Administrative Procedure CON-1)

Contract #: 4600004435

Pre-approved Contract Boilerplate (with County Attorney signature) ☒ Attached ☐ Not Attached

Amendment #: 0

Class I	Class II	Class III A
Contracts \$75,000 and less per 12 month period	Contracts over \$75,000 per 12 month period	<input checked="" type="checkbox"/> Government Contracts (190 Agreement)
<input type="checkbox"/> Professional Services Contracts <input type="checkbox"/> PCRB Contracts <input type="checkbox"/> Maintenance Agreements <input type="checkbox"/> Licensing Agreements <input type="checkbox"/> Public Works Construction Contracts <input type="checkbox"/> Architectural & Engineering Contracts <input type="checkbox"/> Revenue Contracts <input type="checkbox"/> Grant Contracts <input type="checkbox"/> Non-Expenditure Contracts	<input type="checkbox"/> Professional Services Contracts <input type="checkbox"/> PCRB Contracts <input type="checkbox"/> Maintenance Agreements <input type="checkbox"/> Licensing Agreements <input type="checkbox"/> Public Works Construction Contracts <input type="checkbox"/> Architectural & Engineering Contracts <input type="checkbox"/> Revenue Contracts <input type="checkbox"/> Grant Contracts <input type="checkbox"/> Non-Expenditure Contracts	<input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Revenue <input type="checkbox"/> Non-Expenditure
		Class III B
		<input type="checkbox"/> Government Contracts (Non-190 Agreement)
		<input type="checkbox"/> Expenditure <input type="checkbox"/> Revenue <input type="checkbox"/> Non-Expenditure
		<input type="checkbox"/> Interdepartmental Contracts

Department: Office Of School & Community Partnerships Division: School Linked Services Date: August 21, 2003
 Originator: Bob Lewicki Phone: 26035 Bldg/Rm: 166/2
 Contact: Patty Doyle Phone: 24418 Bldg/Rm: 166/2
 Description of Contract: This contract will allow for the mitigation of at risk factors and behaviors that are contributing to students' truant conduct and provide the necessary resources, interventions and solutions needed to facilitate and ensure the student's consistent attendance at school.

RENEWAL: ☒ PREVIOUS CONTRACT #(S): 4600003248
 RFP/BID: RFP/BID DATE:
 EXEMPTION #: FX04-637
 EFFECTIVE DATE: 7/1/03 EXPIRATION DATE: 6/30/04 ORS/AR #:
 CONTRACTOR IS: ☐ MBE ☐ WBE ☐ ESB ☐ GRF State Cert# or ☐ Self Cert ☐ Non-Profit ☒ N/A (Check all boxes that apply)

Contractor: Multnomah Education Service District		Remittance Address	
Address: PO Box 301039		(If different)	
City/State: Portland, OR			
Zip Code: 97294-3039		Payment Schedule / Terms	
Phone: 503.280.2600		<input type="checkbox"/> Lump Sum \$ <input type="checkbox"/> Due on Receipt <input type="checkbox"/> Monthly \$ <input type="checkbox"/> Net 30 <input type="checkbox"/> Other \$ <input checked="" type="checkbox"/> Other	
Employer ID# or SS#: 93.6000829		Requirements Funding Info:	
Contract Effective Date: July 1, 2003	Term Date: December 30, 2003	Original Requirements Amount \$	
Amendment Effect Date:	New Term Date:	Total Amt of Previous Amendments \$	
Original Contract Amount \$	87,383.00	Requirements Amount Amendment: \$	
Total Amt of Previous Amendments \$	0	Total Amount of Requirements \$	
Amount of Amendment \$	0		
Total Amount of Agreement \$	87,383.00		

REQUIRED SIGNATURES

Department Manager: Lorenzo T. Pae, Jr. mas DATE: 8/22/03
 Purchasing Manager: _____ DATE: _____
 County Attorney: Chris Taylor DATE: 8/26/03
 County Chair: Chen M. J. DATE: 9.18.03
 Sheriff: _____ DATE: _____
 Contract Administration: _____ DATE: _____

COMMENTS: Vendor Code 25136

Exhibit A, Rev. 03/07/03

\\cfs-share2\shared\oscp\DCPP\business_services\Contracts\FY0304 CAF\MESD caf.doc

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS

AGENDA # C-2 DATE 09.18.03
DEB BOGSTAD, BOARD CLERK



MULTNOMAH COUNTY
CENTRAL PROCUREMENT AND
CONTRACT ADMINISTRATION

FHCH
Approved by: Diane Linn
Diane Linn, County Chair
Date: 7/22/03

Professional Services Notification

FX 04-0637

TEMPORARY EXEMPTION

To: DOYLE, PATTY

This is to inform you that a Professional Services exemption has been approved for the following items/services:

STUDENT ATTENDANCE INITIATIVE SERVICES

Services shall be provided by
the following contractor(s):

<u>Vendor Name</u>	<u>Exemption Amount</u>
CASCADIA BEHAVIORAL HLTHCARE INC	57,307.00
LUTHERAN COMMUNITY SERVICES	47,662.00
MORRISON CENTER	47,662.00
PORTLAND PUBLIC SCHOOL	171,391.00
MULTNOMAH EDUCATION SERVICE	174,766.00
PORTLAND IMPACT INC	47,662.00

This exemption is approved
on the following use schedule:

	Starting Amt	Amendments			Total Amt
		Originated	1 Year Only	Per Year	
7/1/03 - 6/30/04	546,450.00				546,450.00
					546,450.00

This Exemption will start on: **July 1, 2003**
and expire on: **June 30, 2004**

Additional remarks:

Approved by: **Dave Boyer (for the Chair)**

Please note: **The tracking number assigned to this exemption is FX 04-0637**

**Please refer to this exemption number and the expiration date
on all future orders and communications.**

Should you have any questions regarding this notification or the exemption,
please contact: **Catherine Kwong** at extension **24151**

Amendments to this Exemption: **None**

**MULTNOMAH COUNTY OREGON****BOARD OF COUNTY COMMISSIONERS**

Office of School & Community Partnerships
421 SW Sixth Avenue, Suite 200
Portland, Oregon 97204-1623
(503) 988-6295 phone
(503) 988-3332 fax
(503) 988-3598 TDD

Diane M. Linn	Chair of the Board
Maria Rojo de Steffey	District 1 Commissioner
Serena Cruz	District 2 Commissioner
Lisa Naito	District 3 Commissioner
Lonnie Roberts	District 4 Commissioner

TO: Franna Hathaway, Manager
Central Procurement and Contract Administration

FROM: Lorenzo T. Poe, Jr., Director *Lorenzo T. Poe, Jr. mas*
Office of School and Community Partnerships

DATE: June 17, 2003

SUBJECT: *New* ~~Amendment~~ Request to Temporary Exemption Included in the School Age Policy Framework

OK CM
7/21/03

Request for Amendment to Exemption: The Office of School and Community Partnerships (OSCP) is requesting an amendment to the approved Exemptions for the School Age Policy Framework services. If approved this amendment will allow Student Attendance Initiative (SAI) services to be exempted from an Request for Proposal (RFP) process based on them being included in the upcoming School Age Policy Framework RFP. The amendment will add SAI services to six contracts and is valued at \$546,450 for the period July 1, 2003 through June 30, 2004.

Background: SAI is an initiative to increase the school attendance of students by mitigating at risk factors and behaviors that are contributing to student's truant conduct. The service is designed to provide the necessary resources, interventions and specific remedies needed to facilitate and ensure student's consistent attendance at school. The oversight of this service originated in the Department of Community Justice but effective July 1, 2003 it will be the responsibility of OSCP. Originally the service was contracted to the Volunteers of America (VOA), (FX02-0439) who in turn subcontracted the service to: Cascadia, Portland Impact, Lutheran Community Service, Morrison Center, Portland Public School District and Multnomah Education Service District. OSCP has determined it can more efficiently administer the Initiative if it contracts directly with the provider agencies rather than contracting with VOA who in turn subcontracts the service. This amendment will allow OSCP to contract with the named agencies for up to one year beginning July 1, 2003. The service is however included in the SAPF and will be procured through that RFP process in the summer of 2003.

The enclosed attachment names the provider agencies and the individual funding levels for each agency.

If you require additional information please contact Patty Doyle at extension 24418.

PUR-1, XII.B.2.a.3 Temp. Exemption

signature: Dave Boyer for Chair

MULTNOMAH COUNTY

2003 JUN 23 AM 7:53

RECEIVED
PURCHASING SECTION

**Office of Schools and Community Partnerships
School Age Policy Framework Services Exemption Request
FY 2003/04
Amendment Request**

17-Jun-03

Service Group - Agency Service Annual Funding Amt.
Student Attendance Initiative:

Cascadia	Student Attendance Initiative Services	57,307
Lutheran Community Service	Student Attendance Initiative Services	47,662
Morrison	Student Attendance Initiative Services	47,662
Portland Impact	Student Attendance Initiative Services	47,662
Portland Public Schools	Student Attendance Initiative Services	171,391
Multnomah Education Service District	Student Attendance Initiative Services	174,766

Subtotal

546,450

MOODY Christine M

From: DOYLE Patty M
Sent: Monday, July 21, 2003 1:03 PM
To: MOODY Christine M
Subject: RE: SCHOOL AGE POLICY FRAMEWORK EXEMPTION REQUEST

Yes, that makes good sense and is what I thought would happen. Thanks

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

From: MOODY Christine M
Sent: Monday, July 21, 2003 12:25 PM
To: DOYLE Patty M
Cc: MOODY Christine M
Subject: SCHOOL AGE POLICY FRAMEWORK EXEMPTION REQUEST

Hi Patty,

I am looking at your exemption request dated 6/17/03. The post-it you attached asked that this amendment be added to exemptions FX04-607, FX04-608, FX04-609.

When we originally processed these exemptions we broke them into service categories. This request looks like it is for a service category of "student attendance initiative services". Would it make sense to make this a new exemption with the multiple vendors you have identified, rather than attach these to the other exemptions?

Thanks,
Christine Moody, CPPB, Supervisor
Multnomah County CPCA
503-988-5111 X22378

GOVERNMENT CONTRACT (190 AGREEMENT)

This is an Agreement between Multnomah Education Service District (Contractor) and Multnomah County (County), pursuant to authority granted in ORS Chapter 190.

PURPOSE:

The purpose of this agreement is for the County to contract with Multnomah Education Service District (MESD) for the School Attendance Initiative (SAI) for at risk students.

The parties agree as follows:

1. **TERM** The term of this agreement shall be from **July 1, 2003 to December 31, 2003**.
2. **RESPONSIBILITIES OF CONTRACTOR** Contractor agrees to provide outreach staff to identify and refer students who fit within the established SAI service guidelines, provide outreach and case brokerage, provide one FTE for data collection on a weekly basis, submit weekly eligibility reports from K-8 Portland Public Schools and High Schools targeted for service through the School Aged Policy Framework, participate collaboratively with the County's program evaluation contractor in an evaluation process to monitor performance outcomes, and to submit quarterly status reports to the County Program Supervisor
3. **RESPONSIBILITIES OF COUNTY** The County agrees to compensate Contractor up to \$87,383.00 for the School Attendance Initiative (SAI) program services to be provided in conjunction with the Contractor, County and Portland Public Schools (PPS) as identified in the attached Special Conditions and School Attendance Initiative Policies and Procedures.
4. **TERMINATION** This agreement may be terminated by either party upon 30 day's written notice.
5. **INDEMNIFICATION** Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, County shall indemnify, defend and hold Contractor harmless from and against all liability, loss and costs arising out of or resulting from the acts of County, its officers, employees and agents in the performance of this agreement. Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300 Contractor shall indemnify, defend and hold harmless County from and against all liability, loss and costs arising out of or resulting from the acts of Contractor, its officers, employees and agents in the performance of this agreement.
6. **INSURANCE** Each party shall each be responsible for providing worker's compensation insurance as required by law. Neither party shall be required to provide or show proof of any other insurance coverage.
7. **ADHERENCE TO LAW** Each party shall comply with all federal, state and local laws and ordinances applicable to this agreement.
8. **NON-DISCRIMINATION** Each party shall comply with all requirements of federal and state civil rights and rehabilitation statutes and local non-discrimination ordinances.

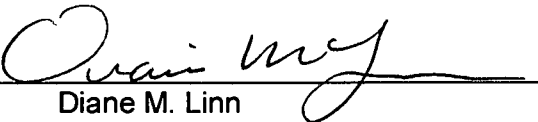
9. **ACCESS TO RECORDS** Each party shall have access to the books, documents and other records of the other which are related to this agreement for the purpose of examination, copying and audit, unless otherwise limited by law.

10. **SUBCONTRACTS AND ASSIGNMENT** Neither party will subcontract or assign any part of this agreement without the written consent of the other party.

11. **THIS IS THE ENTIRE AGREEMENT** This Agreement constitutes the entire Agreement between the parties. This Agreement may be modified or amended only by the written agreement of the parties.

12. **ADDITIONAL TERMS AND CONDITIONS** See attached Special Conditions and School Attendance Initiative Policies and Procedures

MULTNOMAH COUNTY, OREGON
BOARD OF COUNTY COMMISSIONERS

By 
Diane M. Linn

Title Multnomah County Chair

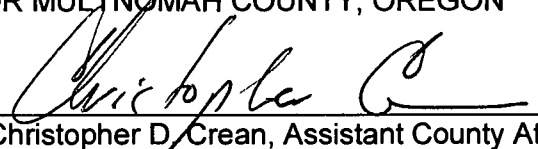
MULTNOMAH EDUCATION SERVICE DISTRICT

By _____

Title _____

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Christopher D. Crean, Assistant County Attorney

APPROVED AS TO FORM:

By _____

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-2 DATE 09.18.03
DEB BOGSTAD, BOARD CLERK



IGA Contract

Vendor Address

MULTNOMAH EDUCATION SERVICE
DISTRICT
PO Box 301039
PORTLAND OR 97294-9039

Information

Contract Number 4600004435
Date 08/07/2003
Vendor No. 25136
Contact/Phone OSCP Services /

Validity Period: 07/01/2003 - 12/31/2003
Minority Indicator: Not Identified

Estimated Target Value: 87,383.00 USD

Item	Material/Description	Target Qty	UM	Unit Price
	<i>Previous OA 4600003248</i>			
0001	H27580006 School Attendance Initiative (USD) Plant: F021 School/Community Partnerships Requirements Tracking Number: FX04-637 Effective 7/1/03 - 12/31/03 Per Invoice / Cost Reimbursement	87,383.000	Dollars	\$ 1.0000



MULTNOMAH COUNTY OREGON
CENTRAL PROCUREMENT AND CONTRACT ADMINISTRATION
P.O. BOX 14700, PORTLAND, OREGON 97293-0700
Phone: (503) 988-5111

ATTACHMENT A

Page 1 of 1

Release Order

Vendor Address

MULTNOMAH EDUCATION SERVICE
DISTRICT
PO Box 301039
PORTLAND OR 97294-9039

Information

Release Order	4500052757
Date	08/07/2003
Vendor No.	25136
Buyer/Phone	OSCP Services /
Validity End Date	12/31/2003
Incoterms	FOB

Ship To:

Multnomah County
Office of School & Community Partnership
421 SW 6th, Suite 200
Portland OR 97204
Fax:

Special Instructions:

Program Contact: Bob Lewicki
503.988.6295 ext. 26035

Item	Material/Description	Quantity	UM	Unit Price	Net Amount
0001	H27580006 School Attendance Initiative (USD) Tracking Number: FX04-637 WBS: SCPSFSAI.CGF Release order against contract 4600004435 Item 00001 Effective 7/1/03 - 12/31/03 Per Invoice / Cost Reimbursement	87,383.000	USD	\$ 1.0000	\$ 87,383.00
Total					\$ 87,383.00

ATTACHMENT B

SPECIAL CONDITIONS

CONTRACT NO. 4600004435

This Agreement continues Multnomah Education Service District's (CONTRACTOR) involvement in the Student Attendance Initiative (SAI). The goal of the service is to identify at-risk factors and behaviors that are contributing to and/or causing students' truant conduct and provide the necessary resources, interventions and specific services needed to facilitate and ensure students' consistent attendance at school. All students referred for these services will be K-8 students referred by PPS, CONTRACTOR or COUNTY (COUNTY) staff for reasons of persistent truancy as defined by district guidelines.

- A. Outreach Staff who will work with school principals and or their designees, COUNTY staff, Caring Communities, Parent/Child Development Centers and other community and school personnel, and/or Multnomah County Youth and Family Center Staff, to identify students who fit within established SAI service guidelines and provide outreach and case brokerage.

One (1) FTE to enter data collected with the SAI Referral and Encounter forms into the SAI database for both CONTRACTOR and PPS referral and activity data. The Referral and Encounter forms are turned in weekly by CONTRACTOR, PPS, OSCP and Family Service Center staff. This data will be turned into the CONTRACTOR Data Entry staff to be entered into the SAI database weekly.

CONTRACTOR will provide weekly 3-15 eligibility reports from K-8 Portland Public Schools and PPS High Schools targeted for service through the School Aged Policy Framework to PPS, OSCP and the Family Service Center SAI Outreach staff.

- B. Collaborative participation with the COUNTY's program evaluation contractor in an evaluation process to monitor performance outcomes under this Agreement. CONTRACTOR shall procure agreement with the relevant school districts and further agrees to allow the COUNTY's program evaluation contractor access to all appropriate data reflecting services to students and families served by SAI.
- C. Submit quarterly reports to the COUNTY Program Supervisor regarding the status of program activities in a format that is mutually determined by the COUNTY, the CONTRACTOR and the initiative's evaluation team. This report will be incorporated into similar reports from the other SAI partners. Reports, inclusive of narrative, will be due by the 15th of the month following the end of the quarter of each fiscal year.

Attachment C

School Attendance Initiative Policies & Procedures

I. REFERRAL CRITERIA

A. Students must meet the following criteria to be referred to the SAI:

1. Grades: Kindergarten through 8th grade
2. Attendance: Have at least 3 full days equivalent of absences within 15 school days. (Exception: At beginning of school year, referral can be made as soon as three days are missed)
3. School Intervention: The school has done all it can to improve students' attendance

B. The SAI excludes the following students:

1. Students who are only tardy
2. Students who are the following:
 - a. Adjudicated and on formal probation or other formal agreement with the Juvenile Court (i.e. Formal Accountability Agreement)
 - b. In private or public school administered alternative school/programs
 - c. Home-schooled
 - d. Reside outside Multnomah County
 - e. Referred by the community, law enforcement, social service agencies or public agencies without prior approval from SAI Program Management.
 - f. "Early leaver's" or are no longer enrolled in a Multnomah County school

II. PRE-REFERRAL ACTIVITIES FOR SCHOOL PERSONNEL

A. On a weekly basis, Information Services of the Portland Public Schools (PPS and Multnomah Educational Service District (MESD) provide SAI Outreach with a list of students, by school, and grade, who have three (3) or more absences within the last fifteen (15) school days.

B. Prior to referring the student to the project, it is the expectation that the school personnel make significant efforts in school interventions prior to referral (i.e. call, letter, conference, staffing, etc.). School personnel shall provide documentation to SAI staff of school interventions employed prior to SAI involvement.

C. The principal and/or designee from each school utilize the student lists to identify referred students to Outreach, who will verify eligibility and proceed with the referral process.

D. Outreach will meet weekly, or as needed, with principal or designee to:

1. Assist school personnel within the school to identify in-school intervention activities with students who are eligible
2. Review the eligibility list and assist in identification of students eligible for referral to the SAI
3. Work with school staff to identify referred students and families that may have language or cultural needs
4. Assists in generating referral paperwork for outreach including referral form and initial attendance run
5. Provide and gather feedback on activities & concerns

III. REFERRAL TO THE PROJECT

- A. Outreach will monitor the referred students' attendance.
- B. Outreach will refer students to Culturally Specific Providers based on ethnic or language needs that are identified.

IV. PRE-INTERVENTION ACTIVITIES

- A. Outreach checks the Juvenile Justice Information System (JJIS) to see if youth is active with Juvenile Court.
 - 1. Office of School and Community Partnership's (OSCP) Outreach Staff will check the JJIS network to determine if youth has a dependency or delinquency status with the Juvenile Court.
 - 2. All other Outreach staff will check monthly list (provided by OSCP) to determine if youth has a delinquency status with Juvenile Court.
- B. Outreach will have the responsibility of reporting to schools the following:
 - 1. Students who are on probation.
 - 2. Counselor names of students who are on probation.
- C. Outreach will check the SAI database to see if student was previously referred.

V. INTERVENTION ACTIVITIES

- A. Outreach attempts a contact with the family (using a combination of phone calls and home visits) within five calendar days after referral from school.
- B. When a successful contact is made:
 - 1. During successful phone call or home visit:
 - a. Check the reason for non-attendance
 - b. Check concerns family has regarding student's school experience
 - c. Remind of parental responsibility if appropriate
 - d. Offer resources
 - 2. Based on contact and findings:
 - a. Contact appropriate agencies based on Outreach's legal responsibilities and families concerns.
 - b. Contact agencies with whom the families are already involved, if known and appropriate
 - c. Access flex funds as needed
 - 3. If cultural or language needs are identified, case may be transferred to Culturally Specific Provider
- C. Student Success Meeting:
 - 1. For families identified with multiple needs, Outreach will conduct a Student Success Meeting with the family, school personnel, and other service providers. Outreach will arrange a meeting at the student's school, a family center or court. Based on the results of the meeting, a contract of agreements to support improved attendance will be outlined and signed by all present. Staff will monitor the case and agreements in the contract.

2. If the attendance doesn't improve, a second student success meeting may be needed.
 3. Documentation will occur on the Weekly Encounter Sheet and supplied to OSCP.
- D. Family is not home:
1. Minimally, leave the following written materials, at door, in first language of family:
 - a. SAI brochure
 - b. SAI Approved Outreach Letter
 - c. Business Card
 2. Request that the family contact Outreach within two school days.
 3. If family does not make contact within two school days, Outreach makes another attempt at contact.
- E. Family can't be located:
1. Contact school for updated information.
 2. If unable to locate family, then close case.
- F. Family is located, either within the same area and cluster or in another area:
1. Case will be reopened when the family is located.
 2. If family is located in another staff's intervention area, case will be transferred and reopened. (See Transfer Policies attached).
- G. SAI staff will have an agency "release of confidentiality" form signed by family when necessary.
- H. When appropriate, Outreach will refer and connect students to in-school and community-based resources.
- I. Each case will be reviewed in 30 days, and again within the next 30 days if necessary, to review:
1. Attendance
 2. Progress
 3. Need for additional resources and/or referrals
 4. Case closure or continuance
- J. Document the results of outreach on the Weekly Encounter Sheet and supply to Data Specialist weekly.

VI. CLOSING CASES

Cases are closed under the following conditions:

- A. Family cannot be located
- B. Family refuses services
- C. Attendance improves
- D. Student no longer meets referral criteria
- E. Family has exhausted SAI resources (requires a staffing, including SAI Coordinator/Supervisor)

VII. DATA COLLECTION

- A. Referral Forms and Encounter Sheets will be documented by staff and turned in to OSCP.

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: September 18, 2003

Agenda Item #: C-3

Est. Start Time: 9:30 AM

Date Submitted: 08/20/03

Requested Date: September 18, 2003

Time Requested: Consent Calendar Item

Department: DBCS

Division: Tax Title

Contact/s: Gary Thomas

Phone: 503-988-3590

Ext.: 22591

I/O Address: 503/4 Tax Title

Presenters: Gary Thomas

Agenda Title: Authorizing the Private Sale of a Tax Foreclosed Property to RICHARD AND MARY JACOBSEN

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

-
- 1. What action are you requesting from the Board? What is the department/agency recommendation?**

The Tax Title Section is requesting the Board to approve the private sale of one tax foreclosed property to RICHARD AND MARY JACOBSEN. The Department of Community Services recommends that the private sale be approved.

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

The subject property was foreclosed on for delinquent property tax liens and came into County ownership on June 8, 1964. The parcel is a strip approximately 10 feet wide and 99.85 feet long that sits adjacent to SE 103rd AVE and 4154 SE 103rd AVE. It was made available to both government agencies and the Affordable Housing Development Program in 1996/97 and was not requested for transfer.

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

Exhibit A, a plat map shows the location of the subject parcel. An aerial photo, Exhibit B shows the neighborhood, the subject property and the new street that was recently put in. Exhibit C are two photos showing the property and the adjacent property at 4154 SE 103rd.

In June of 1995, the property was advertised and eventually sold at a public auction conducted by Multnomah County. The minimum price requested for the property at the auction was \$880. It was purchased at the auction by Paul Allman for \$1,050. Mr. Allman purchased the property on a two-year contract from Multnomah County after providing a \$220 down payment. The same day that he purchased the property Allman proceeded to move a camper onto the property and told the adjacent property owners, the Jacobsens that he was going to live on the property. According to notes that Mr. Jacobsen took at the time of an encounter with Allman the same day of the auction, Allman said that he was going to raise pigs, chickens, and plant corn on the property. A couple of days later Allman started taking out rose bushes that the Jacobsens had planted.

The Jacobsens obviously did not agree with what Allman was doing and what he proposed to do. Mr. Jacobsen started taking notes of what was happening and has provided our office with 29 pages of notes. The notes detail his confrontations with Allman, accounts of the times that the City of Portland Police visited the property, as well as the confrontations that Allman had with the surrounding neighbors. The dates and times are provided for each incident.

As mentioned above, the County initially sold the property to Allman on a two-year contract. However, because of a lack of information that was supposed to be provided to the County regarding the contract, the County refused to process the contract and refunded Allman the monies that he paid. The last time that Allman was at the property was on June 27, nearly three weeks after the date that he submitted the high bid for the property. During that period, the Jacobsens were submitted to an endless stream of verbal harassment by Allman as well as a real threat to their safety and well-being.

The Jacobsens purchased their property at 4154 SE 103rd when it was constructed in 1954 and they have lived there since. The legal description of the property that they purchased describes it as "South 75' of Lot Four excepting the South 10' thereof taken for the widening of SE Boise ST, in Block 6, Woerndlville." The 10 foot wide strip referred to in the legal description is the subject property and the property that was going to be used in the widening of the street. That is perhaps what the contractor who developed the Jacobsen's' property intended to happen but the street was never widened until last year. It is hard to tell what the intent was when the legal description was compiled 48+ years ago but the Jacobsens did not give it much thought at the time.

Turn the clock ahead to 1995 and the subject property has been in County ownership since 1964 and is now included in a list of properties to be sold at public auction. The Jacobsens claim that they were not notified of the auction but our records show that they were. They were apparently sent a flyer notifying them of the auction but the time and place where it was to be held was not included. The Jacobsens also claim that they did not have knowledge of the auction process and did not have cash or certified funds when they attended it. They also stated that they were not aware of the terms of the auction and the required 20% down payment. Unfortunately, Allman purchased the strip and the problems began after that.

After making a thorough review of what happened regarding the sale of the strip at public auction it was concluded by the County Attorney's Office, Tax Title, and others involved with the situation that the property should never have been offered for sale at an auction. To some degree the County was responsible for what eventually happened by offering the property for sale by the means that it did. No one could have foreseen that something like this would happen since the intentions of those involved was to simply sell a small strip of land. Since this incident occurred it has been a hard and fast policy of Tax Title that strips or small irregular shaped parcels will not be offered for sale at public auction.

Without question the two people who had to directly and personally deal with the problems that Allman created were the Jacobsens. They had lived in their house for over 40 years and now were being threatened and harassed by someone out to create problems and make some money in the end. In addition, their neighbors were threatened as were the City of Portland Police who came out to the property. Even a year after Allman left the property and moved to another state, the Jacobsens were receiving phone calls and personal visits from people wondering where Allman was. Due to the situation that they were faced with regarding Allman, the Jacobsens hired an attorney during this period and incurred over \$1,100 in attorney costs.

In September of 2000 the City of Portland, Dept. of Transportation sent notice to our office that they were in the planning process of paving and adding sidewalks to SE Boise ST, which the subject property fronts. The City at first thought that they would need the subject strip but it later was determined that their improvements would not encroach onto the strip and that they would not need it. The paving project was financed through a street improvement bond. The homeowners along SE Boise ST met with the City representatives, were polled, and the majority agreed to share in the cost of the project. The Jacobsens were assessed \$2,900 for the improvements and paid that amount. The County did not receive an assessment.

The strip is of no value to anyone other than the Jacobsens. They have been maintaining it to some degree for over 40 years since they moved into the house. They would like to plant the roses that Allman had them remove which will lend to the appearance of their property. The recommended sale price of \$1.00 is an amount that takes into consideration some of the mental and physical frustration that the Jacobsens had to endure during the time that Allman tried to occupy the subject strip. In addition, it will

allow them to absorb some of the attorney costs that they paid out. The Jacobsens are both retired and living on fixed incomes.

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

The County will not recapture the expenses and back taxes and interest associated with the property. The back taxes and interests total \$41.82 and other expenses total \$575.40. However, with the sale, the property will be placed back onto the tax roll and begin generating tax revenue again.

The subject property currently has in excess of \$1,500 of City of Portland, code enforcement liens owed against it that were incurred in 1995 and 1996 when the Jacobsens were dealing with the person who purchased the property. Under the County's agreement with the City of Portland, only "improvement" liens would have to be paid. In the case of the subject property, no City funds were expended to improve and benefit the property so consequently nothing would have to be paid at this time.

4. Explain any legal and/or policy issues.

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

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

No citizen or government participation is anticipated.

Required Signatures:



Department/Agency Director:

Date: 08/19/03

Budget Analyst

By:

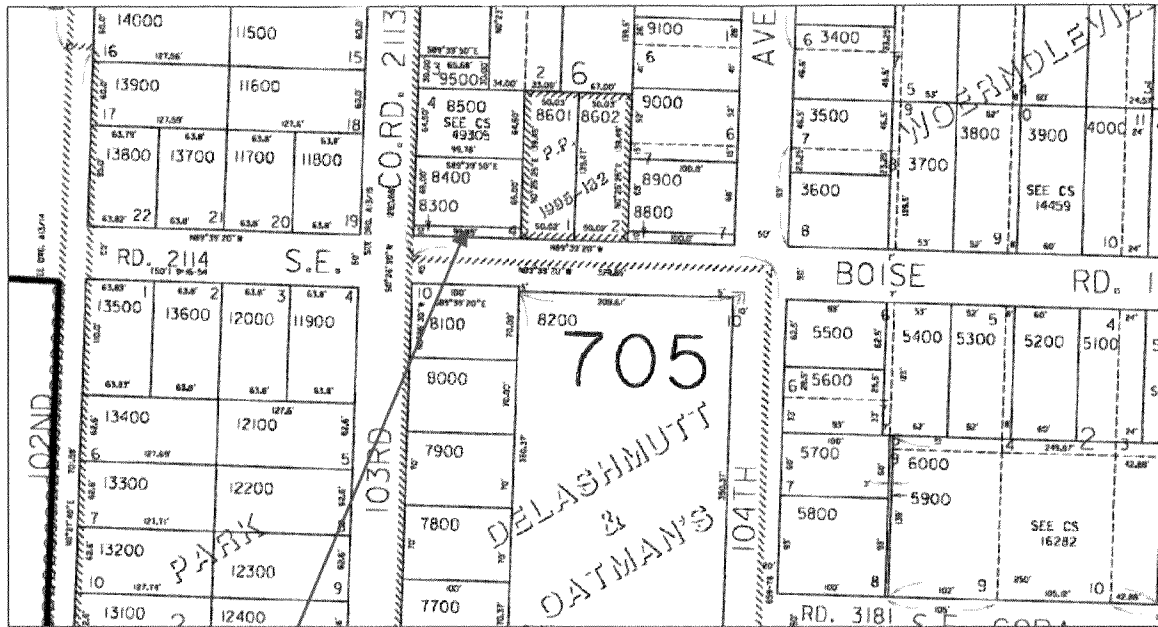
Date:

Dept/Countywide HR

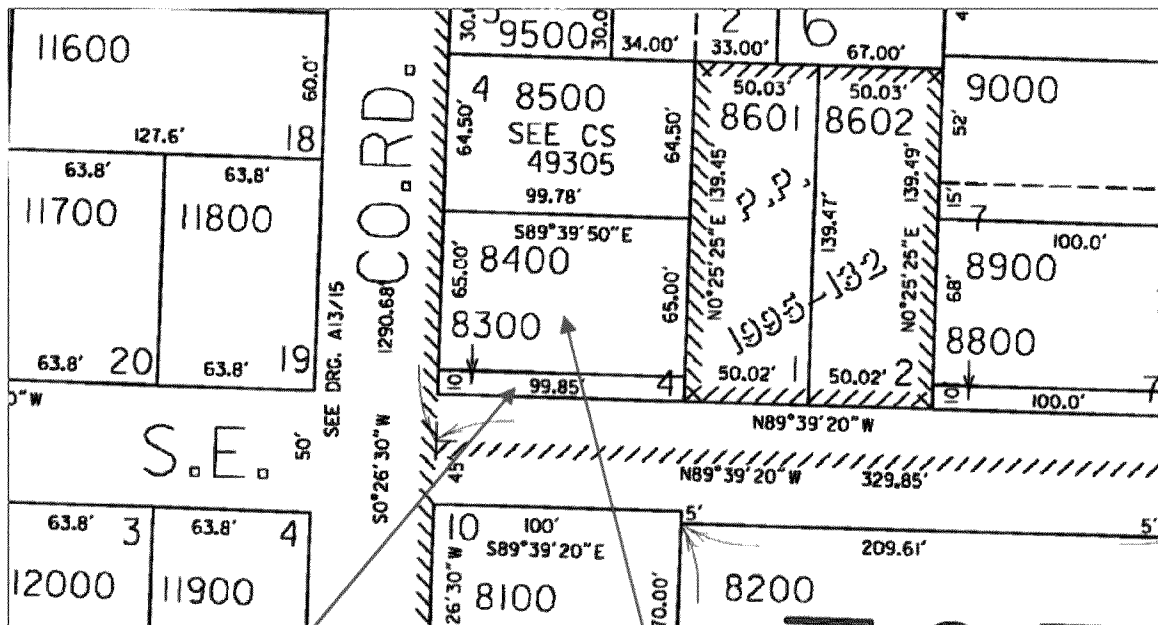
By:

Date:

EXHIBIT A



Subject



Subject

4154 SE 103rd

EXHIBIT B



Subject

EXHIBIT C



subject property



4154 SE 103rd

EXHIBIT D
PROPOSED PROPERTY LISTED FOR PRIVATE SALE
FISCAL YEAR 2003-04

LEGAL DESCRIPTION:

A tract of land in the Southwest One-Quarter of Section 10, Township 1 South, Range 2 East of the Willamette Meridian, Multnomah County, Oregon and described as follows:

The South 10.00 feet of Lot 4, Block 6, Woemdleville, a duly recorded plat of Multnomah County, Oregon as recorded in Plat Book 1180 Page 47 on June 26, 1946, Multnomah County Plat Records.

ADJACENT PROPERTY ADDRESS:	4154 SE 103 rd Ave
TAX ACCOUNT NUMBER:	R310774
GREENSPACE DESIGNATION:	None
SIZE OF PARCEL:	Approx. 10' x 99.85' (998.50sq.ft.)
ASSESSED VALUE:	\$1,890

ITEMIZED EXPENSES FOR TOTAL PRICE OF PRIVATE SALE
--

BACK TAXES & INTEREST:	\$41.82
TAX TITLE MAINTENANCE COST & EXPENSES:	\$575.40
ADVERTISING COST:	-0-
RECORDING FEE:	\$24.00
CITY LIENS:	In excess of \$1,500.00
SUB-TOTAL	\$2,141.22
MINIMUM PRICE REQUEST OF PRIVATE SALE	\$1.00

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY

RESOLUTION NO. _____

Authorizing Private Sale of Certain Tax Foreclosed Property to RICHARD A. & MARY P. JACOBSEN.

The Multnomah County Board of Commissioners Finds:

- a) Multnomah County acquired the real property described in Exhibit A through the foreclosure of liens for delinquent taxes.
- b) The property has an assessed value of \$1890.00 on the County's current tax roll.
- c) Although no written confirmation from the City of Portland was obtained, the Tax Title Division is confident the irregular shape and size of the property, i.e., approximately 10 feet wide and 99.85 feet long, make it unsuitable for construction or placement of a dwelling thereon under current zoning ordinances and building codes, as provided under ORS 275.225.
- d) RICHARD A. & MARY P. JACOBSEN, have agreed to pay \$1.00, an amount the Board finds to be a reasonable price for the property in conformity with ORS 275.225.

The Multnomah County Board of Commissioners Resolves:

- 1. Upon Tax Title's receipt of the payment of \$1.00, the Chair on behalf of Multnomah County, is authorized to execute a deed conveying to RICHARD A. & MARY P. JACOBSEN, the real property described in Exhibit A.

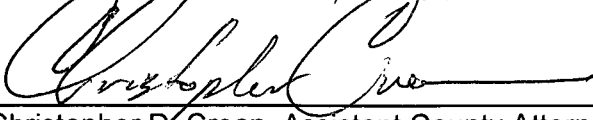
ADOPTED this 18TH day of September 2003.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 

Christopher D. Crean, Assistant County Attorney

EXHIBIT A (RESOLUTION)

Legal Description:

A tract of land in the Southwest One-Quarter of Section 10, Township 1 South, Range 2 East of the Willamette Meridian, Multnomah County, Oregon and described as follows:

The South 10.00 feet of Lot 4, Block 6, Woerndleville, a duly recorded plat of Multnomah County, Oregon as recorded in Plat Book 1180 Page 47 on June 26, 1946, Multnomah County Plat Records.

Multnomah County Deed No.: D041930

Tax Account No.: R310774

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

Deed D041930

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to RICHARD A. & MARY P. JACOBSEN, Husband and Wife, Grantees, that certain real property, located in the City of Portland, Multnomah County, Oregon more particularly described in the attached Exhibit A.

The true and actual consideration paid for this transfer; stated in the terms of dollars is \$1.00.

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

IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of Commissioners the 18th day of September 2003, by authority of a Resolution of the Board of County Commissioners heretofore entered of record.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By.

Christopher D. Crean, Assistant County Attorney

STATE OF OREGON

)

) SS

COUNTY OF MULTNOMAH

)

This Deed was acknowledged before me this 18th day of September 2003, by Diane M. Linn, to me personally known, as Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.

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

EXHIBIT A (DEED)

Legal Description:

A tract of land in the Southwest One-Quarter of Section 10, Township 1 South, Range 2 East of the Willamette Meridian, Multnomah County, Oregon and described as follows:

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Multnomah County Deed No.: D041930

Tax Account No.: R310774

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 03-130

Authorizing Private Sale of Certain Tax Foreclosed Property to RICHARD A. & MARY P. JACOBSEN

The Multnomah County Board of Commissioners Finds:

- a) Multnomah County acquired the real property described in Exhibit A through the foreclosure of liens for delinquent taxes.
- b) The property has an assessed value of \$1890.00 on the County's current tax roll.
- c) Although no written confirmation from the City of Portland was obtained, the Tax Title Division is confident the irregular shape and size of the property, i.e., approximately 10 feet wide and 99.85 feet long, make it unsuitable for construction or placement of a dwelling thereon under current zoning ordinances and building codes, as provided under ORS 275.225.
- d) RICHARD A. & MARY P. JACOBSEN, have agreed to pay \$1.00, an amount the Board finds to be a reasonable price for the property in conformity with ORS 275.225.

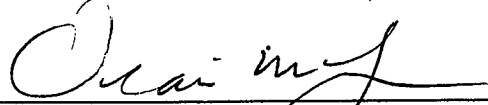
The Multnomah County Board of Commissioners Resolves:

- 1. Upon Tax Title's receipt of the payment of \$1.00, the Chair on behalf of Multnomah County, is authorized to execute a deed conveying to RICHARD A. & MARY P. JACOBSEN, the real property described in Exhibit A.

ADOPTED this 18th day of September 2003.



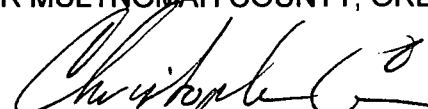
BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 

Christopher D. Crean, Assistant County Attorney

EXHIBIT A (RESOLUTION)

Legal Description:

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Multnomah County Deed No.: D041930

Tax Account No.: R310774

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

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to RICHARD A. & MARY P. JACOBSEN, Husband and Wife, Grantees, that certain real property, located in the City of Portland, Multnomah County, Oregon more particularly described in the attached Exhibit A.

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**BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

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

EXHIBIT A (DEED)

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Diane M. Linn, Chair

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By Christopher D. Crean
Christopher D. Crean, Assistant County Attorney

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

OFFICIAL SEAL
DEBORAH LYNN BOGSTAD
 NOTARY PUBLIC-OREGON
 COMMISSION NO. 345246
 MY COMMISSION EXPIRES JUNE 27, 2005

Page 1 of 2 - Deed D041930

EXHIBIT A (DEED)

Legal Description:

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Multnomah County Deed No.: D041930

Tax Account No.: R310774

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: September 18, 2003

Agenda Item #: C-4

Est. Start Time: 9:30 AM

Date Submitted: 08/21/03

Requested Date: September 18, 2003

Time Requested: N/A

Department: Business and Community Service

Division: FREDs

Contact/s: Joyce Resare/Tom Guiney

Phone: 503-988-5050

Ext.: 29508

I/O Address: 425/FREDs/

Presenters: Tom Guiney

Agenda Title: Government Revenue Contract (190 Agreement) 0410482 with the Housing Authority of Portland, Providing Fleet Maintenance and Fueling Services

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

- 1. What action are you requesting from the Board? What is the department/agency recommendation?**

Approval of the IGA to provide Fleet Repair Services and Fuel to the Housing Authority of Portland. The Department recommends approval.

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

The Housing Authority of Portland has been performing its own fleet services. They are closing down their fleet shop and will be moving some functions into the Blanchard building. They would like to purchase fleet maintenance services and fuel from Multnomah County's fleet shops.

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

The financial impact for FY04 would be an estimated \$70,000 reduction in revenue from the Housing Authority of Portland for fleet related services provided. due to reduced administrative services.

On an ongoing basis, this agreement may help spread some fixed overhead costs across a broader customer base and thereby reduce the costs to County programs.

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

If a budget modification, explain:

- ❖ **What revenue is being changed and why?**
- ❖ **What budgets are increased/decreased?**
- ❖ **What do the changes accomplish?**
- ❖ **Do any personnel actions result from this budget modification? Explain.**
- ❖ **Is the revenue one-time-only in nature?**
- ❖ **If a grant, what period does the grant cover?**
- ❖ **When the grant expires, what are funding plans?**

NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)

If a contingency request, explain:

- ❖ **Why was the expenditure not included in the annual budget process?**
- ❖ **What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?**
- ❖ **Why are no other department/agency fund sources available?**
- ❖ **Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.**
- ❖ **Has this request been made before? When? What was the outcome?**

If grant application/notice of intent, explain:

- ❖ **Who is the granting agency?**
- ❖ **Specify grant requirements and goals.**
- ❖ **Explain grant funding detail – is this a one time only or long term commitment?**
- ❖ **What are the estimated filing timelines?**
- ❖ **If a grant, what period does the grant cover?**
- ❖ **When the grant expires, what are funding plans?**
- ❖ **How will the county indirect and departmental overhead costs be covered?**

4. Explain any legal and/or policy issues.

The agreement furthers the County's efforts to enhance inter-governmental cooperation.

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

There is no citizen participation involved in this agreement. The County and the Housing Authority of Portland are the only governments involved.

Required Signatures:

Department/Agency Director: *Tony Mounts* Date: 08/22/03

Budget Analyst

By: *Ching Hay* Date: 08/22/03

Dept/Countywide HR

By: Date:

MULTNOMAH COUNTY CONTRACT APPROVAL FORM

Pre-approved Contract Boilerplate (with County Attorney signature) ☐ Attached ☐ Not Attached Contract #: 0410482
Amendment #:

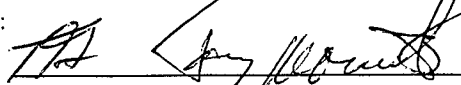

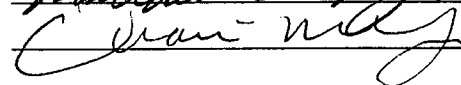
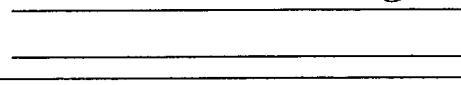
CLASS I	CLASS II	CLASS III A
Contracts \$75,000 and less per 12 month period	Contracts over \$75,000 per 12 month period	<input type="checkbox"/> Government Contracts (190 Agreement)
<input type="checkbox"/> Professional Services Contracts <input type="checkbox"/> PCRB Contracts <input type="checkbox"/> Maintenance Agreements <input type="checkbox"/> Licensing Agreements <input type="checkbox"/> Public Works Construction Contracts <input type="checkbox"/> Architectural & Engineering Contracts <input type="checkbox"/> Revenue Contracts <input type="checkbox"/> Grant Contracts <input type="checkbox"/> Non-Expenditure Contracts	<input type="checkbox"/> Professional Services Contracts <input type="checkbox"/> PCRB Contracts <input type="checkbox"/> Maintenance Agreements <input type="checkbox"/> Licensing Agreements <input type="checkbox"/> Public Works Construction Contracts <input type="checkbox"/> Architectural & Engineering Contracts <input type="checkbox"/> Revenue Contracts <input type="checkbox"/> Grant Contracts <input type="checkbox"/> Non-Expenditure Contracts	<input type="checkbox"/> Expenditure <input type="checkbox"/> Non-Expenditure <input type="checkbox"/> Revenue CLASS III B <input checked="" type="checkbox"/> Government Contracts (Non-190 Agreement) <input type="checkbox"/> Expenditure <input type="checkbox"/> Non-Expenditure <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Interdepartmental Contracts

Department: Business & Community Services Division: FREDS Date: 08/14/03
 Originator: Tom Guiney Phone: Ext 85353 Bldg/Rm: 425/FREDS
 Contact: Joyce Resare Phone: Ext 29508 Bldg/Rm: 425/FREDS
 Description of Contract: IGA authorizing County Fleet Services to provide fleet maintenance and fueling to the Housing Authority of Portland

RENEWAL: ☐ PREVIOUS CONTRACT #(S): _____
 RFP/BID: _____ RFP/BID DATE: _____
 EXEMPTION #: _____ ORS/AR #: _____
 EFFECTIVE DATE: 9/1/2003 EXPIRATION DATE: 06/30/2005
 CONTRACTOR IS: ☐ MBE ☐ WBE ☐ ESB ☐ QRF State Cert# _____ or ☐ Self Cert ☐ Non-Profit ☒ N/A (Check all boxes that apply)

Contractor	Housing Authority Of Portland			Remittance address	_____
Address	135 SW Ash St.			(If different)	_____
City/State	Portland, OR			Payment Schedule / Terms	_____
ZIP Code	97204			<input type="checkbox"/> Lump Sum \$ _____	<input type="checkbox"/> Due on Receipt
Phone	503-802-8495			<input checked="" type="checkbox"/> Monthly \$ _____	<input checked="" type="checkbox"/> Net 30
Employer ID# or SS#	93-6001547			<input type="checkbox"/> Other \$ _____	<input type="checkbox"/> Other
Contract Effective Date	9/1/2003	Term Date	6/30/2005	<input type="checkbox"/> Requirements Funding Info:	
Amendment Effect Date	New Term Date			Original Requirements Amount	\$ _____
Original Contract Amount	\$ 10,000 estimate			Total Amt of Previous Amendments	\$ _____
Total Amt of Previous Amendments	\$ _____			Requirements Amount Amendment	\$ _____
Amount of Amendment	\$ _____			Total Amount of Requirements	\$ _____
Total Amount of Agreement \$	\$ 10,000 estimate				

REQUIRED SIGNATURES:

Department Manager		DATE	<u>8/27/03</u>
Purchasing Manager		DATE	_____
County Attorney		DATE	<u>August 15, 2003</u>
County Chair		DATE	<u>9-18-03</u>
Sheriff	_____	DATE	_____
Contract Administration	_____	DATE	_____

COMMENTS:

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-4 DATE 09-18-03
PER BOGSTAD, BOARD CLERK

INTERGOVERNMENTAL AGREEMENT FOR FLEET SERVICES

This CONTRACT, made and entered into as of the 1st day of September, 2003, by and between Multnomah County (hereinafter referred to as "County") and Housing Authority of Portland (hereinafter referred to as "HAP"). This CONTRACT is entered into by the aforementioned public agencies in accordance with ORS 190 and ORS 279.

RECITALS

HAP desires to enter into a contract for the maintenance and repair of HAP's vehicles and equipment;

THE County has the ability to provide the maintenance and repair of HAP's vehicles and equipment;

HAP desires to enter into a contract for the fueling of HAP's vehicles and equipment;

THE County has the ability to provide for the fueling of HAP's vehicles and equipment;

The parties agree as follows:

A. CONTRACT DOCUMENTS: This contract includes Exhibits 1.

TERMS AND CONDITIONS

1. SERVICES -Fleet Maintenance and Repair

- 1.1 Multnomah County agrees to provide the services described in Exhibit 1 on HAP's vehicles and equipment as needed upon request by HAP or its designee, at the rates and for the amounts subject to any applicable administrative or overhead costs as shown in Exhibit 1.
- 1.2 If during service of any HAP vehicle the County discovers any equipment safety problems it will advise HAP and keep the vehicle out of service until the safety problem is resolved or HAP has provided a written authorization to release the vehicle.
- 1.3 HAP will bring the vehicles to be serviced by the County to 301 N. Dixon or 1620 SE 190th Ave. and pickup vehicles after repair or servicing from the County as provided in Section 1.5. County will provide transport if requested. County-provided transport will be charged at the regular shop rate.

1.4 Maintenance Records:

- 1.4.1 The County shall prepare maintenance records for serviced or repaired equipment, including equipment number, parts used, services performed, staff-hours involved, and the date of such services. The County shall deliver a copy of these records to HAP with the monthly invoices as provided in Section 3.2. This information may be used in billing verification.

1.5 Shop Hours, Repair and Maintenance Schedules:

- 1.5.1 Service for routine breakdowns and maintenance will be provided on a normal work week basis, Monday through Friday, 0800 to 1600 hours. Additional service hours may be available as work schedules allow.
- 1.5.2 HAP will schedule maintenance services with the County's Fleet Services Customer Service Representative or their designee prior to vehicle delivery.
- 1.5.3 All equipment services, including normal repairs, shall be completed in a timely manner not to exceed 40 working hours, or one work week.
- 1.5.4 The county will be excused from the 40 working hour time span for reasons of unavailability of parts, unforeseen extenuating circumstances, or repairs requiring more than 24 hours of direct labor. HAP will be notified of any delays beyond the established time.
- 1.5.5 County acknowledges that HAP retains the right to utilize other repair shops for vehicle maintenance and repair. Upon delivery to County repair shop, and request from HAP staff for maintenance and repair, the County may consider such action as HAP approval to perform the needed repairs.
- 1.5.6 If any repair performed by the County is reasonably concluded to be defective the County at its option may either (1) refund the cost of the repair or (2) perform such corrective work or repair it determines appropriate. County shall not be responsible for compensating HAP for lost time or productivity due to the corrective repair.

2. SERVICES – Fueling of HAP’s Vehicles and Equipment

- 2.1 HAP will be able to fuel their vehicles and equipment at the Blanchard and Yeon self-service fueling stations. All costs related to new access cards, keys, or other media shall be billed to HAP in the same manner and amounts that such costs are billed to County non-General Fund Departments.
- 2.2 When purchasing fuel from the County, HAP will be responsible for any requirements of the State of Oregon for reporting fuel usage, for obtaining fuel use emblems, and for any tax liability.
- 2.3 The County will supply HAP with fuel chip keys and/or employee access codes or other access methods to facilitate the fueling at the Blanchard and Yeon fuel station sites. The County reserves the right to deny HAP access to the fuel at any time due to an emergency situation as determined by the County Fleet Manager.

3 BILLING AND COMPENSATION PROCEDURES

- 3.1 HAP will pay the County for fleet services provided on a time and material basis, and will include all appropriate administrative fees and markups as provided in Exhibit 1. Labor charges will be subject to an annually adjusted hourly rate.
- 3.2 County will send to HAP a monthly bill. Each bill will invoice all fuel, services, parts and supplies provided to HAP during the invoice period and shall include as applicable a fuel report that shows fuel dispensed by date, vehicle, quantity, and current pricing and fleet service work orders. HAP will pay the bill within 30 days of receipt.
- 3.3 The charge rates effective as of July 1, 2003 are shown on Exhibit 1. The charge rates will be adjusted annually beginning July 1, 2004 with changes being effective on July 1 of each year. Notice of pending rate changes shall be provided to HAP no later than March 1 of each year, with any proposed increases being subject to mutual agreement of the parties.
- 3.4 Any perceived discrepancies in billing, brought to the attention of the County or HAP, within 12 months of service, will be documented and if confirmed will be corrected within 90 days of notice.

4 INSURANCE / LIABILITY

- 4.1 It is understood that HAP 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 as required by statutes, general commercial liability insurance, property damage insurance and automobile liability insurance with respect to its activities under this Agreement. The insurance shall name the other party ("Insured Party") and its officials and employees as additional insureds.
- 4.2 Except as may be required by Section 4.3, the insurance referred to in Section 4.1 shall provide liability 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.
- 4.3 The limits of the required insurance 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.
- 4.4 The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds the Insured Party and its officers, agents, and employees. Notwithstanding the naming of additional insured, the insurance shall protect each insured in the same manner as though a separate policy had been issued with the Insured Party named as insured. The coverage must apply as to claims between insureds on the policy.
- 4.5 The insurance shall provide that the coverage shall not terminate or be canceled without sixty (60) days written notice first being given to the Insured Party's risk manager. If the insurance is canceled or terminated prior to termination of the Agreement, the Insuring Party shall provide a new policy with the same or greater limits. The Insuring Party agrees to maintain continuous, uninterrupted coverage for the duration of the Agreement and to provide the Insured Party with evidence thereof.
- 4.6 County will be liable for and repair all damage to HAP vehicles that occurs while in the control of the County unless such damages is the result of negligence of HAP. If the cost of repair of any such damage exceeds the value of the vehicle, County may elect to pay HAP the fair market value of the vehicle in lieu of making repair.
- 4.7 When County subcontracts work on HAP vehicles, County will require the subcontractor to maintain Garagekeepers Legal Liability insurance or Commercial General Liability insurance together with Commercial

Automobile Insurance. The combined single limit for such insurance shall be not less than \$500,000.

5 INDEMNIFICATION

- 5.1 Subject to the limits in the Tort Claims Act, ORS 30.260 *et seq.* and the Oregon Constitution, HAP 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, arising out of or as a result of damage or injuries (including death) to persons or property in connection with HAP's performance or failure to perform under this Agreement.
- 5.2 Subject to the limits in the Tort Claims Act, ORS 30.260 *et seq.* and the Oregon Constitution, County agrees to defend, indemnify and save harmless HAP, its officers, agents, and employees from and against all claims, actions and liabilities, and all expenses incidental to the investigation and defense thereof, arising out of or as a result of damage or injuries (including death) to persons or property in connection with County's performance or failure to perform under this Agreement.

6 DISPUTE RESOLUTION

- 6.1 Except as provided for defective vehicle repair work under Section 1.5.6, which shall be handled as provided under that Section, in the event a dispute arises concerning this Agreement, the County and HAP 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.
- 6.2 The parties agree that any dispute under this Agreement which is not resolved through mediation under Section 6.1 shall be resolved in accordance with this section. 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. Each party shall bear its own costs and attorney fees in connection with any arbitration.

7 CONTRACT DURATION

- 7.1 This Contract will be effective from September 1, 2003 through June 30, 2005, and will be renewable for additional one year periods not to exceed five years total contract term, unless terminated in accordance with the Contract's termination clause. Contract renewals shall be executed in writing and signed by both parties.

8 TERMINATION, DEFAULT AND REMEDIES

- 8.1 Either party may terminate this Agreement effective July 1 of any year by notice of termination in writing to the other party not later than April 1 of the calendar year in which the termination is to be effective.
- 8.2 If the County fails to perform the services required to be performed by County under this Agreement, County shall be deemed to be in default. If HAP shall fail to pay any of the sums required to be paid under this Agreement or fail to do any other thing required to be done by HAP under this Agreement, HAP shall be deemed to be in default.
- 8.3 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, HAP may, at its option, terminate this Agreement by giving written notice of such termination to County. HAP may also pursue any other remedies available to it under applicable law.
- 8.4 If HAP, after written notice, fails to pay any of the sums required to be paid under this Agreement or to remedy any other 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, at its option, terminate this Agreement immediately by giving written notice of such termination to HAP. County may also pursue any other remedies available to it under applicable law by reason of HAP's default.

9 MISCELLANEOUS

- 9.1 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.

- 9.2 This Agreement may be modified only by a writing signed for County by the Chair or the Chair's designee, who is as of the date of this agreement the County Director of Business and Community Services, and signed for HAP by the Executive Director or the Executive Director's designee who is as of the date of this agreement the Deputy Executive Director, Federal Housing. The parties shall not be bound by any oral or written statement of any servant, agent, or employee purporting to modify this Agreement.

10 INTEGRATION

- 10.1 This Agreement contains the entire agreement between the parties and supersedes all prior written or oral discussions or agreements.

Dated: _____

HOUSING AUTHORITY OF
PORTLAND

By _____

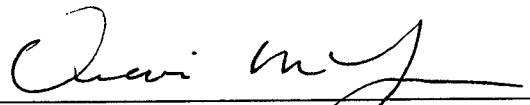
Reviewed:

Housing Authority of Portland

By _____


Dated: 9.18.03

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

By 
Diane M. Linn, Chair

Reviewed:

Agnes Sowle, County Attorney
For Multnomah County

By 
Matthew O. Ryan, Asst County Attorney

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-4 DATE 09.18.03
PER BOGSTAD, BOARD CLERK



Department Business and Community Services

MULTNOMAH COUNTY OREGON

Fleet, Records, Electronic, & Distribution Services Division (FREDS)

1620 SE 190th Avenue

Portland, Oregon 97233

(503) 988-5050 phone

(503) 988-5565 fax

EXHIBIT 1

**TO INTERGOVERNMENTAL AGREEMENT BETWEEN MULTNOMAH COUNTY
AND HOUSING AUTHORITY OF PORTLAND FOR FLEET SERVICES**

A. SERVICES AND PRODUCTS PROVIDED

County Provided Services and Products for District Vehicles:

- Preventative Maintenance
- DEQ Testing
- Tire Repair & Replacement
- Body & Paint work
- Custom Fabrication
- Mechanical Repair
- Road Calls
- Repair & maintenance services
- Equipment Installation
- Vehicle pick-up and delivery
- Related shop services
- Fuel

B. RATES, CHARGES, AND FEES

1. Vehicle Maintenance and Repair Rates

Maintenance and Repair Services provided on a time and material basis with charges and markups as follows:

1. Labor Shop Rate: \$65.00/hr
2. Parts and Supplies: At County Cost plus 25%

2. Fuel Charges: At County Cost plus 7%

3. Charges for Outside Contracted Services:

Passed through to District at County cost plus administrative mark-up.

4. Administrative Fees

These fees are applied to the total invoice amounts to recover Multnomah County administrative costs.

Fleet Services Administration: 10.%

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: September 18, 2003

Agenda Item #: C-5

Est. Start Time: 9:30 AM

Date Submitted: 09/08/03

Requested Date: September 18, 2003

Time Requested: N/A

Department: DBCS

Division: Land Use & Transportation Program

Contact/s: Karen Schilling

Phone: (503) 988-5050 **Ext.:** 29635

I/O Address: 455/1st Floor

Presenters: Consent Calendar

Agenda Title: Approval of Government Revenue Contract (190 Agreement) 0310531 with ODOT for Sandy Blvd – Bridge Street (UPRR Under Xing) (Known as 223rd Ave Railroad Under Crossing) Preliminary Engineering and Right of Way Acquisition

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

- 1. What action are you requesting from the Board? What is the department/agency recommendation?**

The Land Use and Transportation Program recommends approval of the Governmental Agreement between ODOT and Multnomah County for the Sandy Blvd – Bridge Street (UPRR Under Xing) project Preliminary Engineering and Right-of-Way phases. This project is also known as the 223rd Ave Railroad Under Crossing.

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

The County has received funds for the Preliminary Engineering (PE) and the Right-of-Way (R/W) acquisition phases in previous Metropolitan Transportation Improvement Program (MTIP) allocations. Preliminary engineering is nearly complete at this time. Construction funds for the 223rd Ave Railroad Under Crossing project was the County's highest priority for federal funds in the last MTIP cycle.

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

The total cost of the PE and R/W phases is estimated at \$800,000. The available federal funds for the PE (\$267,000) and R/W (\$134,595) are limited to \$401,595. The County is responsible for \$398,405 of the cost for the PE and R/W phases. The PE was started in FY 03 and carried into FY 04. County matching funds for R/W are planned in the FY 05 budget. Construction is anticipated to occur in FY 05.

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

If a budget modification, explain:

- ❖ What revenue is being changed and why?
- ❖ What budgets are increased/decreased?
- ❖ What do the changes accomplish?
- ❖ Do any personnel actions result from this budget modification? Explain.

- ❖ Is the revenue one-time-only in nature?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?

NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)

If a contingency request, explain:

- ❖ Why was the expenditure not included in the annual budget process?

- ❖ What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?
- ❖ Why are no other department/agency fund sources available?
- ❖ Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.

- ❖ Has this request been made before? When? What was the outcome?

If grant application/notice of intent, explain:

- ❖ Who is the granting agency?
- ❖ Specify grant requirements and goals.
- ❖ Explain grant funding detail – is this a one time only or long term commitment?
- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

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

We request an exemption to the ART submittal rules because this is a time sensitive Agreement which must be signed by the County prior to September 30, 2003.

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

Support for this project has been expressed numerous times through the County's CIP process. The City of Fairview strongly supports this project as it will allow them to develop their community and provide better access to industrial lands. The East Multnomah County Transportation Committee has recognized this project as a high priority for East County.

Required Signatures:



Department/Agency Director:

Date: 09/04/03

Budget Analyst

By: _____

Date:

Dept/Countywide HR

By: _____

Date:

MULTNOMAH COUNTY CONTRACT APPROVAL FORM

Pre-approved Contract Boilerplate (with County Attorney signature) ☒ Attached ☐ Not Attached Contract #: 0310531
Amendment #:

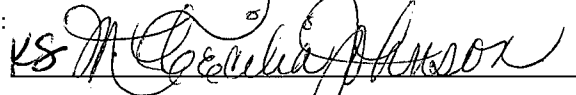
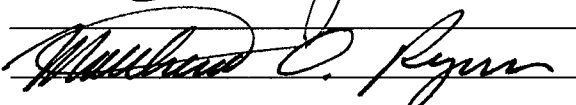
CLASS I	CLASS II	CLASS III A
Contracts \$75,000 and less per 12 month period	Contracts over \$75,000 per 12 month period	<input type="checkbox"/> Government Contracts (190 Agreement)
<input type="checkbox"/> Professional Services Contracts <input type="checkbox"/> PCRB Contracts <input type="checkbox"/> Maintenance Agreements <input type="checkbox"/> Licensing Agreements <input type="checkbox"/> Public Works Construction Contracts <input type="checkbox"/> Architectural & Engineering Contracts <input type="checkbox"/> Revenue Contracts <input type="checkbox"/> Grant Contracts <input type="checkbox"/> Non-Expenditure Contracts	<input type="checkbox"/> Professional Services Contracts <input type="checkbox"/> PCRB Contracts <input type="checkbox"/> Maintenance Agreements <input type="checkbox"/> Licensing Agreements <input type="checkbox"/> Public Works Construction Contracts <input type="checkbox"/> Architectural & Engineering Contracts <input type="checkbox"/> Revenue Contracts <input type="checkbox"/> Grant Contracts <input type="checkbox"/> Non-Expenditure Contracts	<input type="checkbox"/> Expenditure <input type="checkbox"/> Non-Expenditure <input type="checkbox"/> Revenue CLASS III B <input checked="" type="checkbox"/> Government Contracts (Non-190 Agreement) <input type="checkbox"/> Expenditure <input type="checkbox"/> Non-Expenditure <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Interdepartmental Contracts

Department: Business and Community Services Division: Land Use & Trans Program Date: Sept. 3, 2003
 Originator: Karen Schilling Phone: x29635 Bldg/Rm: 455/Annex
 Contact: Cathey Kramer Phone: x22589 Bldg/Rm: 455/Annex
 Description of Contract: Governmental Agreement between the County and Oregon Dept. of Transportation for Preliminary Engineering and Right of Way Acquisition in connection with the Sandy Blvd. - Bridge St. (UPRR Under Xing), also referred to as the 223rd Avenue Railroad Under Crossing.

RENEWAL: ☐ PREVIOUS CONTRACT #(S):
 RFP/BID: RFP/BID DATE:
 EXEMPTION #: ORS/AR #:
 EFFECTIVE DATE: EXPIRATION DATE:
 CONTRACTOR IS: ☐ MBE ☐ WBE ☐ ESB ☐ QRF State Cert# or ☐ Self Cert ☐ Non-Profit ☒ N/A (Check all boxes that apply)

Contractor	Oregon Department of Transportation			* Note: Federal: \$401,595/County: \$398,405
Address	123 NW Flanders St.			Remittance address
City/State	Portland, OR			(If different)
ZIP Code	97209-4037			Payment Schedule / Terms
Phone	(503) 731-8276 or (503) 293-3640			<input type="checkbox"/> Lump Sum \$ <input type="checkbox"/> Due on Receipt <input type="checkbox"/> Monthly \$ <input type="checkbox"/> Net 30 <input type="checkbox"/> Other \$ <input type="checkbox"/> Other
Employer ID# or SS#	N/A			<input type="checkbox"/> Requirements Funding Info:
Contract Effective Date	10/1/03	Term Date	9/30/11	Original Requirements Amount \$
Amendment Effect Date	New Term Date			Total Amt of Previous Amendments \$
Original Contract Amount	\$			Requirements Amount Amendment \$
Total Amt of Previous Amendments	\$			Total Amount of Requirements \$ *
Amount of Amendment	\$			
Total Amount of Agreement	\$800,000.00 (* See note.)			

REQUIRED SIGNATURES:

Department Manager		DATE	9/1/03
Purchasing Manager		DATE	
County Attorney		DATE	1/8/03
County Chair		DATE	
Sheriff		DATE	
Contract Administration		DATE	

COMMENTS: (ROADCEC0363D540)
 KSCK2873.CAF
 APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS
 AGENDA # DATE
 DEB BOGSTAD, BOARD CLERK

MULTNOMAH COUNTY CONTRACT APPROVAL FORM

Pre-approved Contract Boilerplate (with County Attorney signature) ☒ Attached ☐ Not Attached Contract #: 0310531
Amendment #:

CLASS I	CLASS II	CLASS III A
Contracts \$75,000 and less per 12 month period	Contracts over \$75,000 per 12 month period	<input checked="" type="checkbox"/> Government Contracts (190 Agreement)
<input type="checkbox"/> Professional Services Contracts <input type="checkbox"/> PCRB Contracts <input type="checkbox"/> Maintenance Agreements <input type="checkbox"/> Licensing Agreements <input type="checkbox"/> Public Works Construction Contracts <input type="checkbox"/> Architectural & Engineering Contracts <input type="checkbox"/> Revenue Contracts <input type="checkbox"/> Grant Contracts <input type="checkbox"/> Non-Expenditure Contracts	<input type="checkbox"/> Professional Services Contracts <input type="checkbox"/> PCRB Contracts <input type="checkbox"/> Maintenance Agreements <input type="checkbox"/> Licensing Agreements <input type="checkbox"/> Public Works Construction Contracts <input type="checkbox"/> Architectural & Engineering Contracts <input type="checkbox"/> Revenue Contracts <input type="checkbox"/> Grant Contracts <input type="checkbox"/> Non-Expenditure Contracts	<input type="checkbox"/> Expenditure <input type="checkbox"/> Non-Expenditure <input checked="" type="checkbox"/> Revenue CLASS III B <input type="checkbox"/> Government Contracts (Non-190 Agreement) <input type="checkbox"/> Expenditure <input type="checkbox"/> Non-Expenditure <input type="checkbox"/> Revenue <input type="checkbox"/> Interdepartmental Contracts

Department: Business and Community Services Division: Land Use & Trans Program Date: Sept. 3, 2003
 Originator: Karen Schilling Phone: x29635 Bldg/Rm: 455/Annex
 Contact: Cathy Kramer Phone: x22589 Bldg/Rm: 455/Annex
 Description of Contract: Governmental Agreement between the County and Oregon Dept. of Transportation for Preliminary Engineering and Right of Way Acquisition in connection with the Sandy Blvd. - Bridge St. (UPRR Under Xing), also referred to as the 223rd Avenue Railroad Under Crossing.

RENEWAL: ☐ PREVIOUS CONTRACT #(S): _____
 RFP/BID: _____ RFP/BID DATE: _____
 EXEMPTION #: _____ ORS/AR #: _____
 EFFECTIVE DATE: _____ EXPIRATION DATE: _____
 CONTRACTOR IS: ☐ MBE ☐ WBE ☐ ESB ☐ QRF State Cert# _____ or ☐ Self Cert ☐ Non-Profit ☒ N/A (Check all boxes that apply)

Contractor	<u>Oregon Department of Transportation</u>		* Note: Federal: \$401,595/County: \$398.405
Address	<u>123 NW Flanders St.</u>		Remittance address _____
City/State	<u>Portland, OR</u>		(If different) _____
ZIP Code	<u>97209-4037</u>		Payment Schedule / Terms
Phone	<u>(503) 731-8276 or (503) 293-3640</u>		<input type="checkbox"/> Lump Sum \$ _____ <input type="checkbox"/> Due on Receipt
Employer ID# or SS#	<u>N/A</u>		<input type="checkbox"/> Monthly \$ _____ <input type="checkbox"/> Net 30
Contract Effective Date	<u>10/1/03</u> Term Date	<u>9/30/11</u>	<input type="checkbox"/> Other \$ _____ <input type="checkbox"/> Other
Amendment Effect Date	<u>New Term Date</u>		<input type="checkbox"/> Requirements Funding Info:
Original Contract Amount	\$ _____	Original Requirements Amount	\$ _____
Total Amt of Previous Amendments	\$ _____	Total Amt of Previous Amendments	\$ _____
Amount of Amendment	\$ _____	Requirements Amount Amendment	\$ _____
Total Amount of Agreement	\$ <u>\$800,000.00 (* See note.)</u>	Total Amount of Requirements	\$ * _____

REQUIRED SIGNATURES:

Department Manager _____	DATE _____
Purchasing Manager _____	DATE _____
County Attorney <u>[Signature]</u>	DATE <u>9.17.03</u>
County Chair <u>[Signature]</u>	DATE <u>9.18.03</u>
Sheriff _____	DATE _____
Contract Administration _____	DATE _____

COMMENTS: (ROADCEC0363D540)

KSC2873.CAF

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-5 DATE 09.18.03
DEB BOGSTAR BOARD CLERK

LOCAL AGENCY AGREEMENT
SURFACE TRANSPORTATION PROJECT – METRO
Sandy Blvd. – Bridge St. (UPRR Under Xing)

THIS AGREEMENT is made and entered into by and between THE STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State"; and MULTNOMAH COUNTY, acting by and through its Elected Officials, hereinafter referred to as "Agency".

RECITALS

1. 223rd Avenue from Sandy Boulevard to Bridge Street (UPRR Under Xing) is a part of the County Road system under the jurisdiction and control of Multnomah County.
2. By the authority granted in ORS 190.110, 366.770 and 366.775, State may enter into cooperative agreements with the counties, cities and units of local government for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
3. State and Agency entered into an agreement on this Project, No. 18287, which was effective July 12, 2001. Said agreement expired July 12, 2003 before the Project was completed and an amendment could be completed. It has now been determined by ODOT and Agency to enter into a new agreement for this Project to complete the preliminary engineering phase of work; to add the right of way (R/W) acquisition phase of work; to provide additional funding; and to extend the termination date for the completion of the Project.

NOW THEREFORE, the premises being in general as stated in the foregoing recitals, it is agreed by and between the parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, State and Agency plan and propose to design a wider replacement railroad underpass where the Union Pacific Railroad crosses 223rd Avenue from Sandy Boulevard to Bridge Street, hereinafter referred to as "Project". The location of the Project is approximately as shown on the sketch map attached hereto, marked Exhibit A, and by this reference made a part hereof.
2. The Project shall be conducted as a part of the Federal-Aid Surface Transportation Program, Title 23, United States Code. The total estimated cost for the PE and R/W

M C & A No. 20,934
MULTNOMAH COUNTY

is estimated at \$800,000. The STP funds available for the PE and R/W are limited to \$401,595, including any STP funds expended during the duration of and paid under Agreement #18287. The Project shall be financed with Urbanized Surface Transportation Program funds at the maximum allowable federal participating amount, with Agency providing the match and any non-participating costs. The estimate for the total Project cost is subject to change. This agreement is for PE and R/W acquisition only. An amendment to this agreement is required prior to any other phase of work if federal funds are to be applied.

3. The term of this Agreement shall begin upon execution of the Agreement by all parties and shall terminate upon completion of the work or eight calendar years following the date of final execution of this Agreement by both parties, whichever is sooner.
4. This Agreement may be terminated by mutual written consent of both parties. Such written consent shall not be unreasonably withheld.

State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:

- a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
- b. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within 10 days or such longer period as State may authorize.
- c. If Agency fails to provide payment of its share of the cost of the Project.
- d. If State fails to receive funding, appropriations, limitations or other expenditure authority at levels sufficient to pay for the work provided in the Agreement.
- e. If Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.

M C & A No. 20,934
MULTNOMAH COUNTY

Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

5. The Special and Standard Provisions attached hereto, marked Attachments 1 and 2, respectively, are by this reference made a part hereof. The Standard Provisions apply to all federal-aid projects and may be modified only by the Special Provisions. The parties hereto mutually agree to the terms and conditions set forth in Attachments 1 and 2. In the event of a conflict, this Agreement shall control over the attachments, and Attachment 1 shall control over Attachment 2.
6. Agency, as a recipient of federal funds, pursuant to this Agreement with the State, shall assume sole liability for Agency's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Agency's breach of any such conditions that requires the State to return funds to the Federal Highway Administration, hold harmless and indemnify the State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
7. Agency shall enter into and execute this Agreement during a duly authorized session of its Board of County Commissioners.
8. This Agreement and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals as of the day and year hereinafter written.

This Project is in the 2002-2005 Statewide Transportation Improvement Program that was approved by the OTC on February 13, 2002, page 56, Key No. 11429.

The Oregon Transportation Commission on February 13, 2002, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-

M C & A No. 20,934
MULTNOMAH COUNTY

to-day operations when the work is related to a project included in the Statewide Transportation Improvement Program or a line item in the biennial budget approved by the Commission.

On September 6, 2002, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, in which the Director delegates authority to the Executive Deputy Director for Highways to approve and execute agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program.

APPROVAL RECOMMENDED

By _____
Region 1 Manager

Date _____

By _____
Tech Serv Mgr/Chief Engineer

Date _____

**APPROVED AS TO
LEGAL SUFFICIENCY**

By _____
Assistant Attorney General

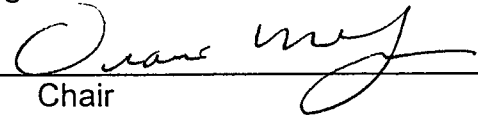
Date _____

STATE OF OREGON, by and through
its Department of Transportation

By _____
Executive Deputy Director for Highways

Date _____

MULTNOMAH COUNTY, by and
through its Elected Officials

By 
Chair

Date 9.18.03

REVIEWED FOR LEGAL SUFFICIENCY

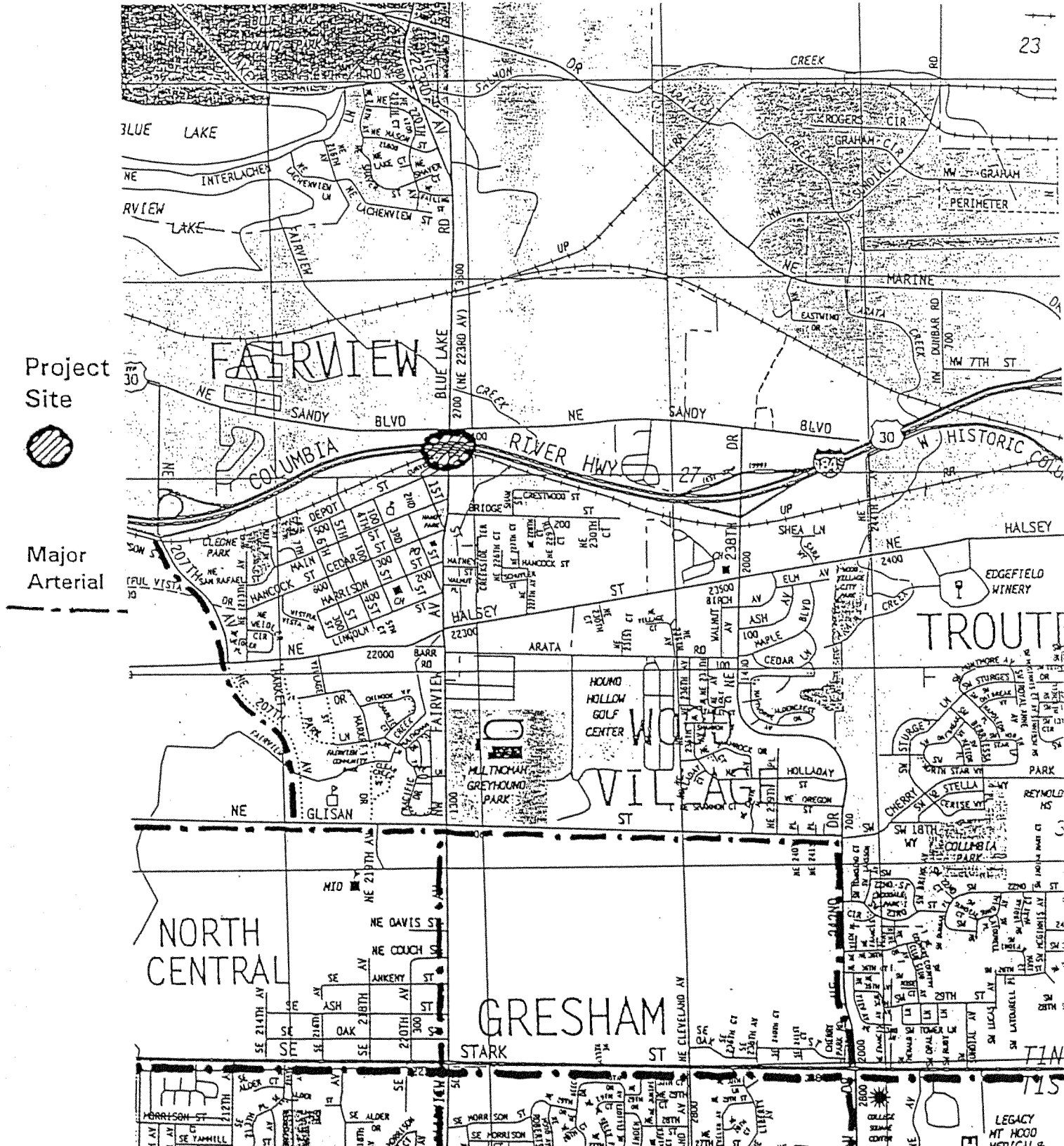
By 
Assistant County Attorney

Date 9/8/03

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-5 DATE 09-18-03
DEB BOGSTAD, BOARD CLERK

VICINITY MAP
Sandy Blvd – Bridge St (UPRR Under Crossing)

EXHIBIT "A"



ATTACHMENT NO. 1

M C & A No. 20,934

SPECIAL PROVISIONS

1. Agency or its consultant shall, as a federal-aid participating preliminary engineering function, conduct the necessary field surveys, environmental studies, traffic investigations, foundation explorations, and hydraulic studies, identify and obtain all required permits, and perform all preliminary engineering and design work required to produce final plans, preliminary/final specifications and cost estimates.
2. Agency, or its designee, shall also obtain all right-of-way required for Project in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the Uniform Act) and its subsequent amendments; ORS 281.060; ORS 35.346, and the State of Oregon Right of Way Manual.
3. Agency shall design the Project to meet the American Association of State Highway and Transportation Officials Standards and Specifications for Highway Bridges, as modified by State's Bridge Section Office Practice Manual.
4. State may make available Region 1's On-Call PE, Design and Construction Engineering Services consultant for Local Agency Projects upon written request. If Agency chooses to use said services they agree to manage the work done by the consultant and make funds available to the State for payment of those services. All eligible work shall be a federally participating cost and included as part of the total cost of the Project.
5. Subject to the limitations and conditions of, and to the extent permitted by, the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 et seq.), the Agency and State each shall be solely responsible for any loss or injury caused to third parties arising from Agency's or State's own acts or omissions under the agreement; and Agency or State shall defend, hold harmless, and indemnify the other party to this Agreement with respect to any claim, litigation, or liability arising from Agency's or State's own acts or omissions under this Agreement.
6. As the Project is on the County Road system, Agency's existing maintenance responsibilities shall survive termination of this Agreement.

ATTACHMENT NO. 2

STANDARD PROVISIONS

JOINT OBLIGATIONS

PROJECT ADMINISTRATION

1. State (ODOT) is acting to fulfill its responsibility to the Federal Highway Administration (FHWA) by the administration of this project, and Agency (i.e. county, city, unit of local government, or other state agency) hereby agrees that State shall have full authority to carry out this administration. If requested by Agency or if deemed necessary by State in order to meet its obligations to FHWA, State will further act for the Agency in other matters pertaining to the project. State and Agency shall actively cooperate in fulfilling the requirements of the Oregon Action Plan. Agency shall, if necessary, appoint and direct the activities of a Citizen's Advisory Committee and/or Technical Advisory Committee, conduct a hearing and recommend the preferred alternative. State and Agency shall each assign a liaison person to coordinate activities and assure that the interests of both parties are considered during all phases of the project.
2. Any project that uses federal funds in project development is subject to plans, specifications and estimates (PS&E) review and approval by FHWA or State acting for FHWA prior to advertisement for bid proposals, regardless of the source of funding for construction.

PRELIMINARY & CONSTRUCTION ENGINEERING

3. State, Agency, or others may perform preliminary and construction engineering. If Agency or others perform the engineering, State will monitor the work for conformance with FHWA rules and regulations. In the event that Agency elects to engage the services of a personal service consultant to perform any work covered by this agreement, Agency and Consultant shall enter into a State reviewed and approved personal service contract process and resulting contract document. State must concur in the contract prior to beginning any work. State's personal service contracting process and resulting contract document will follow Title 23 Code of Federal Regulations (CFR) 172, Title 49 CFR 18, ORS 279.051, the current State Administrative Rules and ODOT Personal Services Contracting Procedures as approved by the Federal Highway Administration (FHWA). Such personal service contract(s) shall contain a description of the work to be performed, a project schedule, and the method of payment. Subcontracts shall contain all required provisions of Agency as outlined in the agreement. No reimbursement shall be made using federal-aid funds for any costs incurred by Agency or its consultant prior to receiving authorization from State to proceed. Any amendments to such contract(s) also require State's approval.
4. On all construction projects where State is the signatory party to the contract, and where Agency is doing the construction engineering and project management, Agency, subject to any limitations imposed by State law and the Oregon Constitution, agrees to accept all responsibility, defend

lawsuits, indemnify and hold State harmless, for all tort claims, contract claims, or any other lawsuit arising out of the contractor's work or Agency's supervision of the project.

REQUIRED STATEMENT FOR USDOT FINANCIAL ASSISTANCE AGREEMENT

5. If as a condition of assistance the Agency has submitted and the US Department of Transportation has approved a Disadvantaged Business Enterprise Affirmative Action Program which the Agency agrees to carry out, this affirmative action program is incorporated into the financial assistance agreement by reference. That program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of the financial assistance agreement. Upon notification to the Agency of its failure to carry out the approved program, the US Department of Transportation shall impose such sanctions as noted in Title 49, Code of Federal Regulations, Part 26, which sanctions may include termination of the agreement or other measures that may affect the ability of the Agency to obtain future US Department of Transportation financial assistance.

6. **DBE Obligations.** State and its contractor agrees to ensure that Disadvantaged Business Enterprises as defined in 49 CFR 26 have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. In this regard, Agency shall take all necessary and reasonable steps in accordance with 49 CFR 26 to ensure that Disadvantaged Business Enterprises have the opportunity to compete for and perform contracts. Neither State nor Agency and its contractors shall discriminate on the basis of race, color, national origin or sex in the award and performance of federally-assisted contracts. The Agency shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of such contracts. Failure by the Agency to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as ODOT deems appropriate.

The DBE Policy Statement and Obligations shall be included in all subcontracts entered into under this contract.

7. The Agency further agrees to comply with all applicable civil rights laws, rules and regulations, including Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (ADA), and Titles VI and VII of the Civil Rights Act of 1964.
8. The parties hereto agree and understand that they will comply with all applicable federal, state, and local laws, regulations, executive orders and ordinances applicable to the work including, but not limited to, the provisions of QRS 279.312, 279.314, 279.316, 279.320 and 279.555, incorporated herein by reference and made a part hereof; Title 49 CFR, Parts 26 and 90, Audits of State and Local Governments; 49 CFR Parts 18 and 24; 23 CFR Part 771; Title 41, USC, Anti-Kickback Act; Title 23, USC, Federal-Aid Highway Act; 42 USC, Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended; provisions of Federal-Aid Policy Guide (FAPG), Title 23 Code of Federal Regulations (23 CFR) 1.11, 710, and 140; and the Oregon Action Plan.

STATE OBLIGATIONS

PROJECT FUNDING REQUEST

9. State shall submit a project funding request to the FHWA with a request for approval of federal-aid participation in all engineering, right-of-way acquisition, eligible utility relocations and/or construction work for the project. No work shall proceed on any activity in which federal-aid participation is desired until such approval has been obtained. The program shall include services to be provided by State, Agency, or others. State shall notify Agency in writing when authorization to proceed has been received from the FHWA. Major responsibility for the various phases of the project will be as outlined in the Special Provisions. All work and records of such work shall be in conformance with FHWA rules and regulations and the Oregon Action Plan.

FINANCE

10. State shall, in the first instance, pay all reimbursable costs of the project, submit all claims for federal-aid participation to the FHWA in the normal manner and compile accurate cost accounting records. Agency may request a statement of costs to date at any time by submitting a written request. When the actual total cost of the project has been computed, State shall furnish Agency with an itemized statement of final costs. Agency shall pay an amount which, when added to said advance deposit and federal reimbursement payment, will equal 100 percent of the final total actual cost. Any portion of deposits made in excess of the final total costs of project, minus federal reimbursement, shall be released to Agency. The actual cost of services provided by State will be charged to the project expenditure account(s) and will be included in the total cost of the project.

PROJECT ACTIVITIES

11. State shall, if the preliminary engineering work is performed by Agency or others, review and process or approve all environmental statements, preliminary and final plans, specifications and cost estimates. State shall, if they prepare these documents, offer Agency the opportunity to review and approve the documents prior to advertising for bids.
12. The party responsible for performing preliminary engineering for the project shall, as part of its preliminary engineering costs, obtain all project related permits necessary for the construction of said project. Said permits shall include, but are not limited to, access, utility, environmental, construction, and approach permits. All pre-construction permits will be obtained prior to advertisement for construction.
13. State shall prepare contract and bidding documents, advertise for bid proposals, and award all contracts.
14. Upon State's award of a construction contract, State shall perform independent assurance testing in accordance with State and FHWA Standards, process and pay all contractor progress estimates,

check final quantities and costs, and oversee and provide intermittent inspection services during the construction phase of the project.

15. The State shall, as a project expense, assign a liaison person to provide project monitoring as needed throughout all phases of project activities (preliminary engineering, right-of-way acquisition, and construction). The liaison shall process reimbursement for federal participation costs.

RIGHT-OF-WAY

16. State is responsible for proper acquisition of the necessary right-of-way and easements for construction and maintenance of the project. Agency may perform acquisition of the necessary right-of-way and easements for construction and maintenance of the project, provided Agency (or Agency's consultant) are qualified to do such work as required by the ODOT Right of Way Manual and have obtained prior approval from ODOT Region Right of Way office to do such work.
17. Regardless of who acquires or performs any of the right-of-way activities, a right-of-way services agreement shall be created by ODOT Region Right of Way office setting forth the responsibilities and activities to be accomplished by each party. State shall always be responsible for requesting project funding, coordinating certification of the right-of-way, and providing oversight and monitoring. Funding authorization requests for federal right-of-way funds must be sent through the Region Right of Way offices on all projects. All projects must have right-of-way certification coordinated through Region Right of Way offices (even for projects where no federal funds were used for right-of-way, but federal funds were used elsewhere on the project). Agency should contact the Region Right of Way office for additional information or clarification.
18. State shall review all right-of-way activities engaged in by Agency to assure compliance with applicable laws and regulations. Agency agrees that right-of-way activities shall be in accord with the Uniform Relocation Assistance & Real Property Acquisition Policy Act of 1970, as amended, ORS 281.060 and ORS Chapter 35, FHWA Federal Aid Policy Guide, State's Right of Way Manual and the Code of Federal Regulations, Title 23, Part 710 and Title 49, Part 24.
19. If any real property purchased with federal-aid participation is no longer needed for the originally authorized purpose, the disposition of such property shall be subject to applicable rules and regulations, which are in effect at the time of disposition. Reimbursement to State and FHWA of the required proportionate shares of the fair market value may be required.
20. Agency insures that all project right-of-way monumentation will be conducted in conformance with ORS 209.150.
21. State and Agency grants each other authority to enter onto the other's right-of-way for the performance of the project.

AGENCY OBLIGATIONS

FINANCE

22. Federal funds shall be applied toward project costs at the current federal-aid matching ratio, unless otherwise agreed and allowable by law. Agency shall be responsible for the entire match amount, unless otherwise agreed to and specified in the intergovernmental agreement.
23. Agency's estimated share and advance deposit.
 - A. Agency shall, prior to commencement of the preliminary engineering and/or right-of-way acquisition phases, deposit with State its estimated share of each phase. Exception may be made in the case of projects where Agency has written approval from the State to use in-kind contributions rather than cash to satisfy all or part of the matching funds requirement.
 - B. Agency's construction phase deposit shall be 110 percent of Agency's share of the engineer's estimate and shall be received prior to award of the bid. Any additional balance of the deposit, based on the actual bid must be received within 45 days of receipt of written notification by the State of the final amount due, unless the contract is canceled. Any unnecessary balance of a cash deposit, based on the actual bid, will be refunded within 45 days of receipt by the State of the project sponsor's written request.
 - C. Pursuant to ORS 366.425, the advance deposit may be in the form of 1) money deposited in the State Treasury (an option where a deposit is made in the Local Government Investment Pool, and an Irrevocable Limited Power of Attorney is sent to the Highway Finance Office), or 2) an Irrevocable Letter of Credit issued by a local bank in the name of State, or 3) cash.
 - D. Agency may satisfy all or part of any matching funds requirements by use of in-kind contributions rather than cash when prior written approval has been given by State.
24. If the estimated cost exceeds the total matched federal funds available, Agency shall deposit its share of the required matching funds, plus 100 percent of all costs in excess of the total matched federal funds. Agency shall also pay 100 percent of the cost of any item in which the FHWA will not participate. If Agency has not repaid any non-participating cost, future allocations of federal funds, or allocations of State Highway Trust Funds, to that Agency may be withheld to pay the non-participating costs. If the State approves processes, procedures, or contract administration outside the *Local Agency Guidelines*, that result in items being declared non-participating, those items will not result in the withholding of Agency's future allocations of federal funds or the future allocations of State Highway Trust Funds.
25. Costs incurred by the State and Agency for services performed in connection with any phase of the project shall be charged to the project, unless otherwise mutually agreed upon.

26. If Agency makes a written request for the cancellation of a federal-aid project; Agency shall bear 100 percent of all costs as of the date of cancellation. If the State was the sole cause of the cancellation, the State shall bear 100 percent of all costs incurred. If it is determined that the cancellation was caused by third parties or circumstances beyond the control of State or Agency, Agency shall bear all development costs, whether incurred by the State or Agency, either directly or through contract services, and the State shall bear any State administrative costs incurred. After settlement of payments, State shall deliver surveys, maps, field notes, and all other data to Agency.
27. The requirements stated in the Single Audit Act must be followed by those local governments receiving \$300,000 or more in federal funds. The Single Audit Act of 1984, PL 98-502 as amended by PL 104-156, described in "Office of Management and Budget Circular A-133", requires local governments to obtain an audit that includes internal controls and compliance with federal laws and regulations of all federally-funded programs in which the local agency participates. The cost of this audit can be partially prorated to the federal program.
28. Additional deposits, if any, shall be made as needed upon request from the State. Requests for additional deposits shall be accompanied by an itemized statement of expenditures and an estimated cost to complete the project.
29. Agency shall present invoices for 100 percent of actual costs incurred by Agency on behalf of the project directly to State's Liaison Person for review and approval. Such invoices shall identify the project and agreement number, and shall itemize and explain all expenses for which reimbursement is claimed. Billings shall be presented for periods of not less than one-month duration, based on actual expenses to date. All billings received from Agency must be approved by State's Liaison Person prior to payment. Agency's actual costs eligible for federal-aid or State participation shall be those allowable under the provisions of FAPG, 23CFR 1.11, 710, and 140. Final billings shall be submitted to State for processing within three months from the end of each funding phase as follows: 1) award date of a construction contract for preliminary engineering 2) last payment for right-of-way acquisition and 3) third notification for construction. Partial billing (progress payment) shall be submitted to State within three months from date that costs are incurred. Final billings submitted after the three months may not be eligible for reimbursement.
30. The cost records and accounts pertaining to work covered by this agreement are to be kept available for inspection by representatives of State and the FHWA for a period of three (3) years following the date of final voucher to FHWA. Copies of such records and accounts shall be made available upon request. For real property and equipment, the retention period starts from the date of disposition (49 CFR 18.42).
31. State shall request reimbursement, and Agency agrees to reimburse State, for federal-aid funds distributed to Agency if any of the following events occur:
- a) That right-of-way acquisition or actual construction of the facility for which preliminary engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which the federal-aid funds were authorized;

- b) That right-of-way acquisition is undertaken utilizing federal-aid funds and actual construction is not started by the close of the twentieth fiscal year following the fiscal year in which the federal-aid funds were authorized for right-of-way acquisition.
 - c) That construction proceeds after the project is determined to be ineligible for federal-aid funding (e.g., no environmental approval, lacking permits, or other reasons).
32. Agency shall maintain all project documentation in keeping with State and FHWA standards and specifications. This shall include, but is not limited to, daily work records, quantity documentation, material invoices and quality documentation, certificates of origin, process control records, test results, and inspection records to ensure that projects are completed in conformance with approved plans and specifications.

RAILROADS

33. Agency shall follow State established policy and procedures when impacts occur on railroad property. The policy and procedures are available through the appropriate Region contact or Railroad & Utility Engineer. Only those costs allowable under 23 CFR 646B & 23 CFR 140I, shall be included in the total project costs; all other costs associated with railroad work will be at the sole expense of the Agency, or others. Agency may request State, in writing, to provide railroad coordination and negotiations. However, the State is under no obligation to agree to perform said duties.

UTILITIES

34. Agency shall cause to be relocated or reconstructed, all privately or publicly-owned utility conduits, lines, poles, mains, pipes, and all other such facilities of every kind and nature where such relocation or reconstruction is made necessary by the plans of the project in order to conform the utilities and other facilities with the plans and the ultimate requirements of the project. Only those utility relocations, which are eligible for federal aid participation under the FAPG, 23 CFR 645A, shall be included in the total project costs; all other utility relocations shall be at the sole expense of the Agency, or others. State will arrange for utility relocations/adjustments in areas lying within jurisdiction of State, if State is performing the preliminary engineering. Agency may request State in writing to arrange for utility relocations/adjustments lying within Agency jurisdiction, acting on behalf of Agency. This request must be submitted no later than 21 weeks prior to bid let date. However, the State is under no obligation to agree to perform said duties.
35. Agency shall follow established State utility relocation policy and procedures. The policy and procedures are available through the appropriate Region Utility Specialist or ODOT Right of Way Section's Railroad and Utility Coordinator.

STANDARDS

36. Design standards for all projects on the National Highway System (NHS) and the Oregon State Highway System shall be in compliance to standards specified in the current ODOT Highway Design Manual and related references. Construction plans shall be in conformance with standard practices of State for plans prepared by its own staff. All specifications for the project shall be in substantial compliance with the most current "Oregon Standard Specifications for Highway Construction".
37. Agency agrees that minimum design standards for non-NHS projects shall be recommended AASHTO Standards and in accordance with the current "Oregon Bicycle and Pedestrian Plan", unless otherwise requested by Agency and approved by State.
38. Agency agrees and will verify that the installation of traffic control devices shall meet the warrants prescribed in the "Manual on Uniform Traffic Control Devices and Oregon Supplements".
39. All plans and specifications shall be developed in general conformance with the current "Contract Road Plans Guide" and the current "Standard Specifications" and/or guidelines provided.
40. The standard unit of measurement for all aspects of the project will be System International (SI) Units (metric). This includes, but is not limited to, right-of-way, environmental documents, plans and specifications, and utilities.

GRADE CHANGE LIABILITY

41. Agency, if a County, acknowledges the effect and scope of ORS 105.755 and agrees that all acts necessary to complete construction of the project which may alter or change the grade of existing county roads are being accomplished at the direct request of the County.
42. Agency, if a City, hereby accepts responsibility for all claims for damages from grade changes. Approval of plans by State shall not subject State to liability under ORS 105.760 for change of grade.
43. Agency, if a City, by execution of agreement, gives its consent as required by ORS 373.030(2) to any and all changes of grade within the City limits, and gives its consent as required by ORS 373.050(1) to any and all closure of streets intersecting the highway, if any there be in connection with or arising out of the project covered by the agreement.

CONTRACTOR CLAIMS

44. Agency shall, to the extent permitted by State law, indemnify, hold harmless and provide legal defense for the State against all claims brought by the contractor, or others resulting from Agency's failure to comply with the terms of this agreement.

MAINTENANCE RESPONSIBILITIES

45. Agency shall, upon completion of construction, thereafter maintain and operate the project at its own cost and expense, and in a manner satisfactory to State and the FHWA.

WORKERS' COMPENSATION COVERAGE

46. Agency, its subcontractors, if any, and all employers working under this agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers, unless such employers are exempt under ORS 656.126. Agency shall ensure that each of its contractors complies with these requirements.

LOBBYING RESTRICTIONS

47. Agency certifies by signing the agreement that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed \$100,000, and that all such subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, US Code.

Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Paragraphs 34, 35, and 45 are not applicable to any local agency on state highway projects.

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: September 18, 2003

Agenda Item #: C-6

Est. Start Time: 9:30 AM

Date Submitted: 09/08/03

Requested Date: September 18, 2003

Time Requested: N/A

Department: DBCS

Division: Land Use & Transportation Program

Contact/s: Ian Cannon, Bridge Engineering Program Mgr

Phone: 503) 988-3757 **Ext.:** 223

I/O Address: 446

Presenters: Consent Calendar

Agenda Title: Approval of Government Revenue Contract (190 Agreement) 0310532 with ODOT for Burnside Bridge Main Span Rehabilitation

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

1. **What action are you requesting from the Board? What is the department/agency recommendation?** Approval of a GA with ODOT titled: Burnside Bridge Main Span Rehabilitation. Approval is recommended by the Department of Business and Community Services.
2. **Please provide sufficient background information for the Board and the public to understand this issue.** This GA will provide federal funding for the rehabilitation of the Burnside Bridge Main Spans to include mechanical renovation, minor electrical upgrades, replacement of the deteriorating deck on the lift span and the adjacent bascule pier spans, and possibly painting of the underdeck steel structure and the installation of seismic upgrades to the lift span.

The mechanical systems that operate the bascule spans to allow river navigation are original and deteriorated. The deck of the bascule span is rutted and worn. The decks over the bascule piers are also in poor condition. The paint system that protects the steel structural members from corrosion is failing. Seismic upgrades were installed on the approach structures under a previous contract, but seismic upgrades were not

installed on the bascule span. This project will prioritize these repairs and perform work possible within the established budget.

The Burnside Bridge has been established as a lifeline structure in the event of an earthquake.

The current project schedule calls for engineering to start as soon as possible, with project bid letting estimated to be in fall of 2005. Field work will probably take place in calendar year 2006.

3. **Explain the fiscal impact (current year and ongoing).** This project is estimated at \$8.64 million. Funding will be provided through the federal Highway Bridge Replacement and Rehabilitation Program. Multnomah County will be required to provide 20% matching funds. The current year budget only includes funds to match the Preliminary Engineering phase of the project. It is anticipated that construction match funds will be available when required in future year Willamette River Bridge Fund budgets.

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

If a budget modification, explain: NA

- ❖ **What revenue is being changed and why?**
- ❖ **What budgets are increased/decreased?**
- ❖ **What do the changes accomplish?**
- ❖ **Do any personnel actions result from this budget modification? Explain.**

- ❖ **Is the revenue one-time-only in nature?**
- ❖ **If a grant, what period does the grant cover?**
- ❖ **When the grant expires, what are funding plans?**

NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)

If a contingency request, explain: NA

- ❖ **Why was the expenditure not included in the annual budget process?**
- ❖ **What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?**
- ❖ **Why are no other department/agency fund sources available?**
- ❖ **Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.**
- ❖ **Has this request been made before? When? What was the outcome?**

If grant application/notice of intent, explain: NA

- ❖ **Who is the granting agency?**
- ❖ **Specify grant requirements and goals.**
- ❖ **Explain grant funding detail – is this a one time only or long term commitment?**

- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

4. **Explain any legal and/or policy issues involved.** We are requesting an exception to the agenda submission timeline. This request is based on a request from Oregon Department of Transportation that we process this IGA and return it by September 25, 2003. This will allow ODOT to obligate a portion of these federal dollars in federal fiscal year 2003. The IGA was received by the Bridge Section around August 28, 2003.
5. **Explain any citizen and/or other government participation that has or will take place.** It is not anticipated that major elements of this project are controversial. However, replacement of the lift span deck and rehabilitation of the lift span machinery may involve significant impacts to users of the bridge during the construction phase of the project. Possible impacts include lane closures, total closure of the bridge to traffic, restrictions of lift span operations, or closure of the lift span to river traffic.

Multnomah County will conduct public involvement meetings to gather input from affected groups. Affected groups include commuters, cyclists, pedestrians, bus traffic, neighboring businesses, and river users. Public involvement will continue through the design and construction phases of this project.

This project will require coordination with state and federal regulators because of environmental issues. The bridge has been identified as a Historic Register eligible structure. River navigation is federally regulated. The City of Portland manages traffic on roadways connecting to the bridge. A partial list of government agencies that will be involved includes: City of Portland Transportation, Oregon Department of Transportation, Federal Highway Administration, United States Coast Guard, Oregon Department of Fish and Wildlife, National Oceanic and Atmospheric Administration Fisheries, Oregon Department of Environmental Quality, and State Historic Preservation Office.

Required Signatures:



Department/Agency Director:

Date: 09/04/03

Budget Analyst

By: _____

Date:

Dept/Countywide HR

By: _____

Date:

MULTNOMAH COUNTY CONTRACT APPROVAL FORM

Pre-approved Contract Boilerplate (with County Attorney signature) ☐ Attached ☒ Not Attached Contract #: 0310532
Amendment #: _____

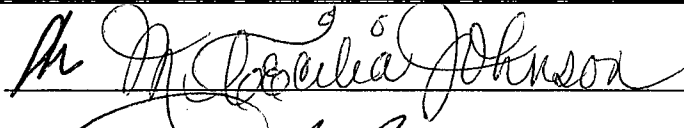
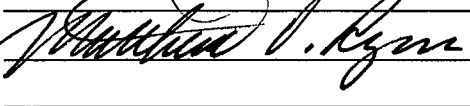
CLASS I	CLASS II	CLASS III A
Contracts \$75,000 and less per 12 month period	Contracts over \$75,000 per 12 month period	<input type="checkbox"/> Government Contracts (190 Agreement)
<input type="checkbox"/> Professional Services Contracts <input type="checkbox"/> PCRB Contracts <input type="checkbox"/> Maintenance Agreements <input type="checkbox"/> Licensing Agreements <input type="checkbox"/> Public Works Construction Contracts <input type="checkbox"/> Architectural & Engineering Contracts <input type="checkbox"/> Revenue Contracts <input type="checkbox"/> Grant Contracts <input type="checkbox"/> Non-Expenditure Contracts	<input type="checkbox"/> Professional Services Contracts <input type="checkbox"/> PCRB Contracts <input type="checkbox"/> Maintenance Agreements <input type="checkbox"/> Licensing Agreements <input type="checkbox"/> Public Works Construction Contracts <input type="checkbox"/> Architectural & Engineering Contracts <input type="checkbox"/> Revenue Contracts <input type="checkbox"/> Grant Contracts <input type="checkbox"/> Non-Expenditure Contracts	<input type="checkbox"/> Expenditure <input type="checkbox"/> Non-Expenditure <input type="checkbox"/> Revenue CLASS III B <input checked="" type="checkbox"/> Government Contracts (Non-190 Agreement) <input type="checkbox"/> Expenditure <input type="checkbox"/> Non-Expenditure <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Interdepartmental Contracts

Department: Business and Community Services Division: Land Use & Transportation Date: 9/3/03
 Originator: Ian Cannon Phone: 83757 ext 223 Bldg/Rm: 446/Bridge
 Contact: Cathey Kramer Phone: Ext 22589 Bldg/Rm: 455/Annex
 Description of Contract: IGA with ODOT for Federal Funds for Burnside Bridge Main Span Rehabilitation

RENEWAL: ☐ PREVIOUS CONTRACT #(S): _____ RFP/BID DATE: _____
 RFP/BID: _____ EXEMPTION #: _____ ORS/AR #: _____
 EFFECTIVE DATE: _____ EXPIRATION DATE: _____
 CONTRACTOR IS: ☐ MBE ☐ WBE ☐ ESB ☐ QRF State Cert# _____ or ☐ Self Cert ☐ Non-Profit ☒ N/A (Check all boxes that apply)

Contractor	Oregon Department of Transportation/Debbie Burgess			Remittance address	_____
Address	123 NW Flanders St.			(If different)	_____
City/State	Portland, OR			Payment Schedule / Terms	_____
ZIP Code	97209-4037			<input type="checkbox"/> Lump Sum \$ _____	<input type="checkbox"/> Due on Receipt
Phone	(503) 731-8276			<input type="checkbox"/> Monthly \$ _____	<input type="checkbox"/> Net 30
Employer ID# or SS#	N/A			<input type="checkbox"/> Other \$ _____	<input type="checkbox"/> Other
Contract Effective Date	10/1/2003	Term Date	9/30/2013	<input type="checkbox"/> Requirements Funding Info:	
Amendment Effect Date	New Term Date			Original Requirements Amount	\$ _____
Original Contract Amount	\$6,912,000			Total Amt of Previous Amendments	\$ _____
Total Amt of Previous Amendments	\$ _____			Requirements Amount Amendment	\$ _____
Amount of Amendment	\$ _____			Total Amount of Requirements	\$ _____
Total Amount of Agreement \$	\$6,912,000				

REQUIRED SIGNATURES:

Department Manager		DATE	<u>9/4/03</u>
Purchasing Manager	_____	DATE	_____
County Attorney		DATE	<u>9/8/03</u>
County Chair	_____	DATE	_____
Sheriff	_____	DATE	_____
Contract Administration	_____	DATE	_____

COMMENTS: WBS 6700RT4027D520

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS

AGENDA # _____ DATE _____
DEB BOGSTAD, BOARD CLERK

MULTNOMAH COUNTY CONTRACT APPROVAL FORM

Contract #: 0310532
 Pre-approved Contract Boilerplate (with County Attorney signature) ☐ Attached ☒ Not Attached
 Amendment #:

CLASS I	CLASS II	CLASS III A
Contracts \$75,000 and less per 12 month period	Contracts over \$75,000 per 12 month period	<input checked="" type="checkbox"/> Government Contracts (190 Agreement)
<input type="checkbox"/> Professional Services Contracts <input type="checkbox"/> PCRB Contracts <input type="checkbox"/> Maintenance Agreements <input type="checkbox"/> Licensing Agreements <input type="checkbox"/> Public Works Construction Contracts <input type="checkbox"/> Architectural & Engineering Contracts <input type="checkbox"/> Revenue Contracts <input type="checkbox"/> Grant Contracts <input type="checkbox"/> Non-Expenditure Contracts	<input type="checkbox"/> Professional Services Contracts <input type="checkbox"/> PCRB Contracts <input type="checkbox"/> Maintenance Agreements <input type="checkbox"/> Licensing Agreements <input type="checkbox"/> Public Works Construction Contracts <input type="checkbox"/> Architectural & Engineering Contracts <input type="checkbox"/> Revenue Contracts <input type="checkbox"/> Grant Contracts <input type="checkbox"/> Non-Expenditure Contracts	<input type="checkbox"/> Expenditure <input type="checkbox"/> Non-Expenditure <input checked="" type="checkbox"/> Revenue CLASS III B <input type="checkbox"/> Government Contracts (Non-190 Agreement) <input type="checkbox"/> Expenditure <input type="checkbox"/> Non-Expenditure <input type="checkbox"/> Revenue <input type="checkbox"/> Interdepartmental Contracts

Department: Business and Community Services Division: Land Use & Transportation Date: 9/3/03
 Originator: Ian Cannon Phone: 83757 ext 223 Bldg/Rm: 446/Bridge
 Contact: Cathey Kramer Phone: Ext 22589 Bldg/Rm: 455/Annex
 Description of Contract: IGA with ODOT for Federal Funds for Burnside Bridge Main Span Rehabilitation

RENEWAL: ☐ PREVIOUS CONTRACT #(S):
 RFP/BID: RFP/BID DATE:
 EXEMPTION #: ORS/AR #:
 EFFECTIVE DATE: EXPIRATION DATE:
 CONTRACTOR IS: ☐ MBE ☐ WBE ☐ ESB ☐ QRF State Cert# or ☐ Self Cert ☐ Non-Profit ☒ N/A (Check all boxes that apply)

Contractor	Oregon Department of Transportation/Debbie Burgess			Remittance address	
Address	123 NW Flanders St.			(If different)	
City/State	Portland, OR			Payment Schedule / Terms	
ZIP Code	97209-4037			<input type="checkbox"/> Lump Sum \$	<input type="checkbox"/> Due on Receipt
Phone	(503) 731-8276			<input type="checkbox"/> Monthly \$	<input type="checkbox"/> Net 30
Employer ID# or SS#	N/A			<input type="checkbox"/> Other \$	<input type="checkbox"/> Other
Contract Effective Date	10/1/2003	Term Date	9/30/2013	<input type="checkbox"/> Requirements Funding Info:	
Amendment Effect Date	New Term Date			Original Requirements Amount	\$
Original Contract Amount	\$6,912,000			Total Amt of Previous Amendments	\$
Total Amt of Previous Amendments	\$			Requirements Amount Amendment	\$
Amount of Amendment	\$			Total Amount of Requirements	\$
Total Amount of Agreement \$	\$6,912,000				

REQUIRED SIGNATURES:

Department Manager	DATE
Purchasing Manager	DATE
County Attorney <i>Matthew C. Ryan</i>	DATE 9.17.03
County Chair <i>Cathy Kramer</i>	DATE 9.18.03
Sheriff	DATE
Contract Administration	DATE

COMMENTS: WBS 6700RT4027D520

APPROVED MULTNOMAH COUNTY
 BOARD OF COMMISSIONERS

AGENDA # C-6 DATE 09-18-03
 BOARD CLERK

LOCAL AGENCY AGREEMENT
HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION PROJECT
Burnside Bridge Main Span Rehabilitation (#0511)

THIS AGREEMENT is made and entered into by and between THE STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State"; and MULTNOMAH COUNTY, acting by and through its Elected Officials, hereinafter referred to as "Agency".

RECITALS

1. The Burnside Bridge is a part of the County Road System under the jurisdiction and control of Multnomah County.
2. By the authority granted in ORS 190.110, 366.770 and 366.775, State may enter into cooperative agreements with counties, cities and units of local government or other state agencies for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.

NOW THEREFORE, the premises being in general as stated in the foregoing recitals, it is agreed by and between the parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, State and Agency plan and propose to remove and replace or rehabilitate the bridge deck and modify the deck drainage; design and construct seismic upgrades; rehabilitate the mechanical system and upgrade the electrical motor drives; and blast and paint the structural steel, hereinafter referred to as "Project". The location of the Project is approximately as shown on the sketch map attached hereto, marked Exhibit A, and by this reference made a part hereof.
2. The Project shall be conducted as a part of the Highway Bridge Replacement and Rehabilitation Program (HBRRL) large bridge category, under Title 23, United States Code. The total Project cost is estimated at \$8,640,000. The HBRRL funds are limited to \$6,912,000. **Agency shall be responsible for the match required for the federal funds, based on the maximum allowable federal fund prorata, and any portion of the Project not covered by federal funding.**

Agency shall be responsible for funding the road approach work associated with the Project. Agency shall submit a letter identifying the funding source six weeks prior to advertisement of Project for bid opening. The estimate for the total Project cost is subject to change.

M C & A No. 20,615
MULTNOMAH COUNTY

3. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate on completion of the Project and final payment or ten calendar years following the date all required signatures are obtained, whichever is sooner.

4. This Agreement may be terminated by mutual written consent of both parties.

State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:

a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.

b. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within 10 days or such longer period as State may authorize.

c. If Agency fails to provide payment of its share of the cost of the Project.

d. If State fails to receive funding, appropriations, limitations or other expenditure authority at levels sufficient to pay for the work provided in the Agreement.

e. If Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.

Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

5. The Special and Standard Provisions attached hereto, marked Attachments 1 and 2, respectively, are by this reference made a part hereof. The Standard Provisions apply to all federal-aid projects and may be modified only by the Special Provisions. The parties hereto mutually agree to the terms and conditions set forth in Attachments 1 and 2. In the event of a conflict, this Agreement shall control over the attachments, and Attachment 1 shall control over Attachment 2.

M C & A No. 20,615
MULTNOMAH COUNTY

6. Agency, as a recipient of federal funds, pursuant to this Agreement with the State, shall assume sole liability for Agency's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Agency's breach of any such conditions that requires the State to return funds to the Federal Highway Administration, hold harmless and indemnify the State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.

7. Agency shall enter into and execute this Agreement during a duly authorized session of its Board of County Commissioners.

8. This Agreement and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals as of the day and year hereinafter written.

This Project is in the 2002-2005 Statewide Transportation Improvement Program (Page 18, key #12374) that was approved by the Oregon Transportation Commission on February 13, 2002.

The federal funding for this Project is contingent upon approval by the FHWA. Any work performed prior to acceptance by FHWA will be considered nonparticipating and paid for at Agency expense.

The Oregon Transportation Commission on June 18, 2003, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations when the work is related to a project included in the Statewide Transportation Improvement Program or a line item in the biennial budget approved by the Commission.

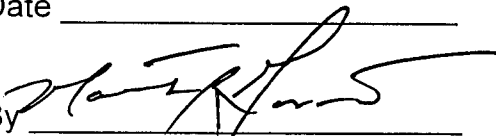
M C & A No. 20,615
MULTNOMAH COUNTY

On September 6, 2002, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, in which the Director delegates authority to the Executive Deputy Director for Highways, to approve and execute agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program.

APPROVAL RECOMMENDED

By _____
Tech Serv Mgr/Chief Engineer

Date _____

By 
Region 1 Manager

Date 8/23/03

APPROVED AS TO
LEGAL SUFFICIENCY

By _____
Assistant Attorney General

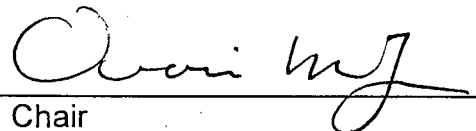
Date _____

STATE OF OREGON, by and through
its Department of Transportation

By _____
Executive Deputy Director for Highways

Date _____

MULTNOMAH COUNTY, by and
through its Elected Officials

By 
Chair

Date 5.19.03

APPROVED AS TO
LEGAL SUFFICIENCY

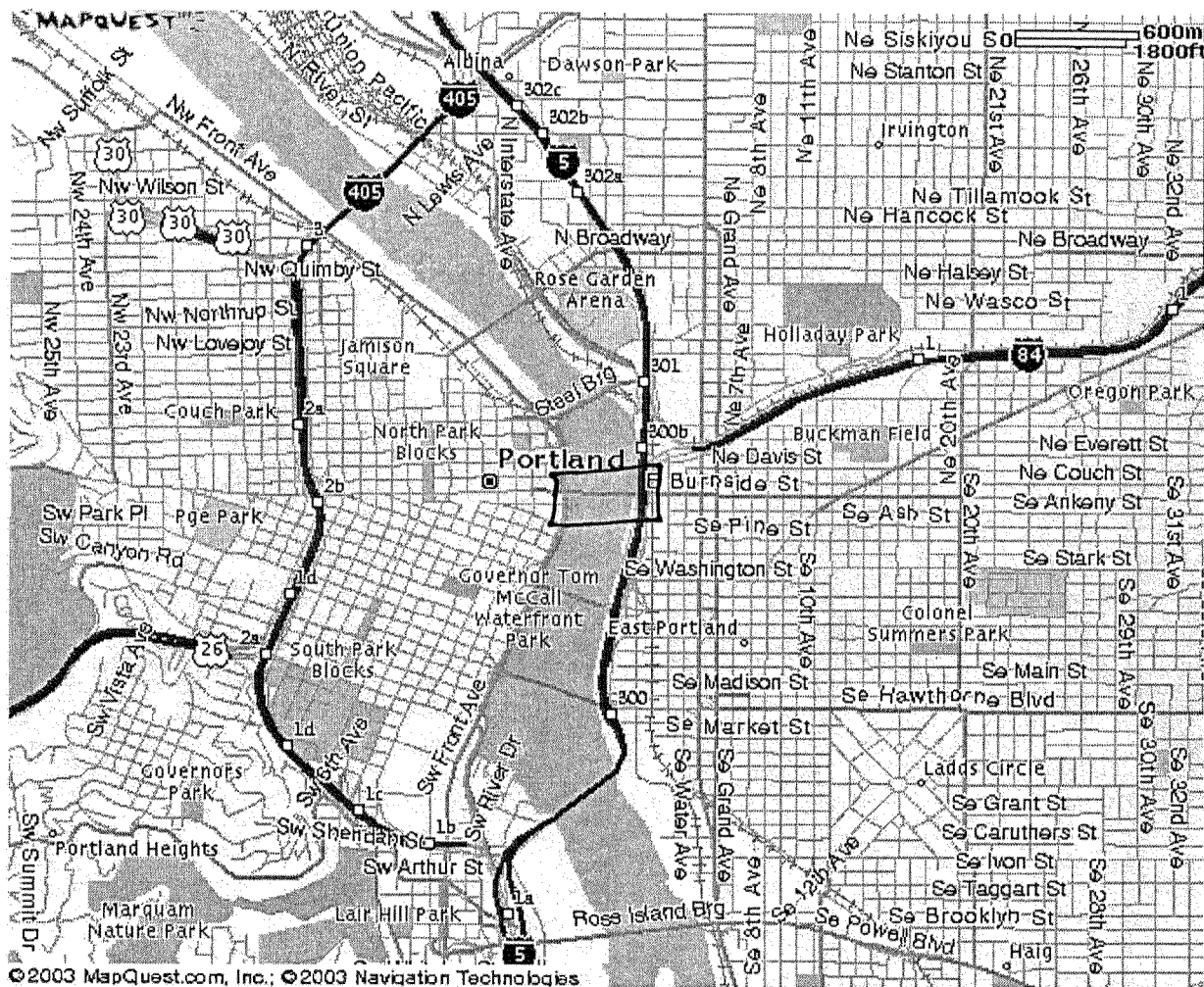
By 
Agency Attorney

Date 9/8/03

Agency Billing Address:
Multnomah County
1620 SE 190th Ave.
Portland, OR 97233

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-6 DATE 09.18.03
DEB ROGSTAD, BOARD CLERK

Burnside Bridge main Span Rehabilitation (#0511)
MC & A No. 20,615



ATTACHMENT NO. 1 to M C & A No. 20,615

SPECIAL PROVISIONS

1. Agency shall, as a federal-aid participating preliminary engineering function, conduct the necessary field surveys, environmental studies, traffic investigations, foundation explorations, and hydraulic studies, identify and obtain all required permits, acquire all right of way, and perform all preliminary engineering and design work required to produce final plans, preliminary/final specifications and cost estimates.
2. In the event that Agency elects to engage the services of a personal services consultant to perform any work covered under this Agreement, Agency and Consultant shall enter into a Personal Services Contract approved by State's Purchasing and Contracts Unit Manager or designee (Salem). Said contract must be reviewed and approved by the Purchasing and Contracts Unit Manager or designee prior to beginning any work. This review includes, but is not limited to the Request for Proposal, Statement of Work, advertisement and all contract documents. This review and approval is required to ensure federal reimbursement.
3. State may make available Region 1's On-Call PE, Design and Construction Engineering Services consultant for Local Agency Projects upon written request. If Agency chooses to use said services, they agree to manage the work done by the consultant and make funds available to the State for payment of those services. All eligible work shall be a federally participating cost and included as part of the total cost of the Project.
4. Agency shall design the Project to meet the American Association of State Highway and Transportation Officials Standards and Specifications for Highway Bridges, as modified by State's Bridge Section Office Practice Manual.
5. Agency shall, upon State's award of construction contract, furnish all construction engineering, field testing of materials, technical inspection and project manager services for administration of the contract.

ATTACHMENT NO. 2

STANDARD PROVISIONS

JOINT OBLIGATIONS

PROJECT ADMINISTRATION

1. State (ODOT) is acting to fulfill its responsibility to the Federal Highway Administration (FHWA) by the administration of this project, and Agency (i.e. county, city, unit of local government, or other state agency) hereby agrees that State shall have full authority to carry out this administration. If requested by Agency or if deemed necessary by State in order to meet its obligations to FHWA, State will further act for the Agency in other matters pertaining to the project. State and Agency shall actively cooperate in fulfilling the requirements of the Oregon Action Plan. Agency shall, if necessary, appoint and direct the activities of a Citizen's Advisory Committee and/or Technical Advisory Committee, conduct a hearing and recommend the preferred alternative. State and Agency shall each assign a liaison person to coordinate activities and assure that the interests of both parties are considered during all phases of the project.
2. Any project that uses federal funds in project development is subject to plans, specifications and estimates (PS&E) review and approval by FHWA or State acting for FHWA prior to advertisement for bid proposals, regardless of the source of funding for construction.

PRELIMINARY & CONSTRUCTION ENGINEERING

3. State, Agency, or others may perform preliminary and construction engineering. If Agency or others perform the engineering, State will monitor the work for conformance with FHWA rules and regulations. In the event that Agency elects to engage the services of a personal service consultant to perform any work covered by this agreement, Agency and Consultant shall enter into a State reviewed and approved personal service contract process and resulting contract document. State must concur in the contract prior to beginning any work. State's personal service contracting process and resulting contract document will follow Title 23 Code of Federal Regulations (CFR) 172, Title 49 CFR 18, ORS 279.051, the current State Administrative Rules and ODOT Personal Services Contracting Procedures as approved by the Federal Highway Administration (FHWA). Such personal service contract(s) shall contain a description of the work to be performed, a project schedule, and the method of payment. Subcontracts shall contain all required provisions of Agency as outlined in the agreement. No reimbursement shall be made using federal-aid funds for any costs incurred by Agency or its consultant prior to receiving authorization from State to proceed. Any amendments to such contract(s) also require State's approval.
4. On all construction projects where State is the signatory party to the contract, and where Agency is doing the construction engineering and project management, Agency, subject to any limitations imposed by State law and the Oregon Constitution, agrees to accept all responsibility, defend

lawsuits, indemnify and hold State harmless, for all tort claims, contract claims, or any other lawsuit arising out of the contractor's work or Agency's supervision of the project.

REQUIRED STATEMENT FOR USDOT FINANCIAL ASSISTANCE AGREEMENT

5. If as a condition of assistance the Agency has submitted and the US Department of Transportation has approved a Disadvantaged Business Enterprise Affirmative Action Program which the Agency agrees to carry out, this affirmative action program is incorporated into the financial assistance agreement by reference. That program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of the financial assistance agreement. Upon notification to the Agency of its failure to carry out the approved program, the US Department of Transportation shall impose such sanctions as noted in Title 49, Code of Federal Regulations, Part 26, which sanctions may include termination of the agreement or other measures that may affect the ability of the Agency to obtain future US Department of Transportation financial assistance.

6. **DBE Obligations.** State and its contractor agrees to ensure that Disadvantaged Business Enterprises as defined in 49 CFR 26 have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. In this regard, Agency shall take all necessary and reasonable steps in accordance with 49 CFR 26 to ensure that Disadvantaged Business Enterprises have the opportunity to compete for and perform contracts. Neither State nor Agency and its contractors shall discriminate on the basis of race, color, national origin or sex in the award and performance of federally-assisted contracts. The Agency shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of such contracts. Failure by the Agency to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as ODOT deems appropriate.

The DBE Policy Statement and Obligations shall be included in all subcontracts entered into under this contract.

7. The Agency further agrees to comply with all applicable civil rights laws, rules and regulations, including Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (ADA), and Titles VI and VII of the Civil Rights Act of 1964.
8. The parties hereto agree and understand that they will comply with all applicable federal, state, and local laws, regulations, executive orders and ordinances applicable to the work including, but not limited to, the provisions of QRS 279.312, 279.314, 279.316, 279.320 and 279.555, incorporated herein by reference and made a part hereof; Title 49 CFR, Parts 26 and 90, Audits of State and Local Governments; 49 CFR Parts 18 and 24; 23 CFR Part 771; Title 41, USC, Anti-Kickback Act; Title 23, USC, Federal-Aid Highway Act; 42 USC, Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended; provisions of Federal-Aid Policy Guide (FAPG), Title 23 Code of Federal Regulations (23 CFR) 1.11, 710, and 140; and the Oregon Action Plan.

STATE OBLIGATIONS

PROJECT FUNDING REQUEST

9. State shall submit a project funding request to the FHWA with a request for approval of federal-aid participation in all engineering, right-of-way acquisition, eligible utility relocations and/or construction work for the project. No work shall proceed on any activity in which federal-aid participation is desired until such approval has been obtained. The program shall include services to be provided by State, Agency, or others. State shall notify Agency in writing when authorization to proceed has been received from the FHWA. Major responsibility for the various phases of the project will be as outlined in the Special Provisions. All work and records of such work shall be in conformance with FHWA rules and regulations and the Oregon Action Plan.

FINANCE

10. State shall, in the first instance, pay all reimbursable costs of the project, submit all claims for federal-aid participation to the FHWA in the normal manner and compile accurate cost accounting records. Agency may request a statement of costs to date at any time by submitting a written request. When the actual total cost of the project has been computed, State shall furnish Agency with an itemized statement of final costs. Agency shall pay an amount which, when added to said advance deposit and federal reimbursement payment, will equal 100 percent of the final total actual cost. Any portion of deposits made in excess of the final total costs of project, minus federal reimbursement, shall be released to Agency. The actual cost of services provided by State will be charged to the project expenditure account(s) and will be included in the total cost of the project.

PROJECT ACTIVITIES

11. State shall, if the preliminary engineering work is performed by Agency or others, review and process or approve all environmental statements, preliminary and final plans, specifications and cost estimates. State shall, if they prepare these documents, offer Agency the opportunity to review and approve the documents prior to advertising for bids.
12. The party responsible for performing preliminary engineering for the project shall, as part of its preliminary engineering costs, obtain all project related permits necessary for the construction of said project. Said permits shall include, but are not limited to, access, utility, environmental, construction, and approach permits. All pre-construction permits will be obtained prior to advertisement for construction.
13. State shall prepare contract and bidding documents, advertise for bid proposals, and award all contracts.
14. Upon State's award of a construction contract, State shall perform independent assurance testing in accordance with State and FHWA Standards, process and pay all contractor progress estimates,

check final quantities and costs, and oversee and provide intermittent inspection services during the construction phase of the project.

15. The State shall, as a project expense, assign a liaison person to provide project monitoring as needed throughout all phases of project activities (preliminary engineering, right-of-way acquisition, and construction). The liaison shall process reimbursement for federal participation costs.

RIGHT-OF-WAY

16. State is responsible for proper acquisition of the necessary right-of-way and easements for construction and maintenance of the project. Agency may perform acquisition of the necessary right-of-way and easements for construction and maintenance of the project, provided Agency (or Agency's consultant) are qualified to do such work as required by the ODOT Right of Way Manual and have obtained prior approval from ODOT Region Right of Way office to do such work.
17. Regardless of who acquires or performs any of the right-of-way activities, a right-of-way services agreement shall be created by ODOT Region Right of Way office setting forth the responsibilities and activities to be accomplished by each party. State shall always be responsible for requesting project funding, coordinating certification of the right-of-way, and providing oversight and monitoring. Funding authorization requests for federal right-of-way funds must be sent through the Region Right of Way offices on all projects. All projects must have right-of-way certification coordinated through Region Right of Way offices (even for projects where no federal funds were used for right-of-way, but federal funds were used elsewhere on the project). Agency should contact the Region Right of Way office for additional information or clarification.
18. State shall review all right-of-way activities engaged in by Agency to assure compliance with applicable laws and regulations. Agency agrees that right-of-way activities shall be in accord with the Uniform Relocation Assistance & Real Property Acquisition Policy Act of 1970, as amended, ORS 281.060 and ORS Chapter 35, FHWA Federal Aid Policy Guide, State's Right of Way Manual and the Code of Federal Regulations, Title 23, Part 710 and Title 49, Part 24.
19. If any real property purchased with federal-aid participation is no longer needed for the originally authorized purpose, the disposition of such property shall be subject to applicable rules and regulations, which are in effect at the time of disposition. Reimbursement to State and FHWA of the required proportionate shares of the fair market value may be required.
20. Agency insures that all project right-of-way monumentation will be conducted in conformance with ORS 209.150.
21. State and Agency grants each other authority to enter onto the other's right-of-way for the performance of the project.

AGENCY OBLIGATIONS

FINANCE

22. Federal funds shall be applied toward project costs at the current federal-aid matching ratio, unless otherwise agreed and allowable by law. Agency shall be responsible for the entire match amount, unless otherwise agreed to and specified in the intergovernmental agreement.
23. Agency's estimated share and advance deposit.
 - A. Agency shall, prior to commencement of the preliminary engineering and/or right-of-way acquisition phases, deposit with State its estimated share of each phase. Exception may be made in the case of projects where Agency has written approval from the State to use in-kind contributions rather than cash to satisfy all or part of the matching funds requirement.
 - B. Agency's construction phase deposit shall be 110 percent of Agency's share of the engineer's estimate and shall be received prior to award of the bid. Any additional balance of the deposit, based on the actual bid must be received within 45 days of receipt of written notification by the State of the final amount due, unless the contract is canceled. Any unnecessary balance of a cash deposit, based on the actual bid, will be refunded within 45 days of receipt by the State of the project sponsor's written request.
 - C. Pursuant to ORS 366.425, the advance deposit may be in the form of 1) money deposited in the State Treasury (an option where a deposit is made in the Local Government Investment Pool, and an Irrevocable Limited Power of Attorney is sent to the Highway Finance Office), or 2) an Irrevocable Letter of Credit issued by a local bank in the name of State, or 3) cash.
 - D. Agency may satisfy all or part of any matching funds requirements by use of in-kind contributions rather than cash when prior written approval has been given by State.
24. If the estimated cost exceeds the total matched federal funds available, Agency shall deposit its share of the required matching funds, plus 100 percent of all costs in excess of the total matched federal funds. Agency shall also pay 100 percent of the cost of any item in which the FHWA will not participate. If Agency has not repaid any non-participating cost, future allocations of federal funds, or allocations of State Highway Trust Funds, to that Agency may be withheld to pay the non-participating costs. If the State approves processes, procedures, or contract administration outside the *Local Agency Guidelines*, that result in items being declared non-participating, those items will not result in the withholding of Agency's future allocations of federal funds or the future allocations of State Highway Trust Funds.
25. Costs incurred by the State and Agency for services performed in connection with any phase of the project shall be charged to the project, unless otherwise mutually agreed upon.

26. If Agency makes a written request for the cancellation of a federal-aid project; Agency shall bear 100 percent of all costs as of the date of cancellation. If the State was the sole cause of the cancellation, the State shall bear 100 percent of all costs incurred. If it is determined that the cancellation was caused by third parties or circumstances beyond the control of State or Agency, Agency shall bear all development costs, whether incurred by the State or Agency, either directly or through contract services, and the State shall bear any State administrative costs incurred. After settlement of payments, State shall deliver surveys, maps, field notes, and all other data to Agency.
27. The requirements stated in the Single Audit Act must be followed by those local governments receiving \$300,000 or more in federal funds. The Single Audit Act of 1984, PL 98-502 as amended by PL 104-156, described in "Office of Management and Budget Circular A-133", requires local governments to obtain an audit that includes internal controls and compliance with federal laws and regulations of all federally-funded programs in which the local agency participates. The cost of this audit can be partially prorated to the federal program.
28. Additional deposits, if any, shall be made as needed upon request from the State. Requests for additional deposits shall be accompanied by an itemized statement of expenditures and an estimated cost to complete the project.
29. Agency shall present invoices for 100 percent of actual costs incurred by Agency on behalf of the project directly to State's Liaison Person for review and approval. Such invoices shall identify the project and agreement number, and shall itemize and explain all expenses for which reimbursement is claimed. Billings shall be presented for periods of not less than one-month duration, based on actual expenses to date. All billings received from Agency must be approved by State's Liaison Person prior to payment. Agency's actual costs eligible for federal-aid or State participation shall be those allowable under the provisions of FAPG, 23CFR 1.11, 710, and 140. Final billings shall be submitted to State for processing within three months from the end of each funding phase as follows: 1) award date of a construction contract for preliminary engineering 2) last payment for right-of-way acquisition and 3) third notification for construction. Partial billing (progress payment) shall be submitted to State within three months from date that costs are incurred. Final billings submitted after the three months may not be eligible for reimbursement.
30. The cost records and accounts pertaining to work covered by this agreement are to be kept available for inspection by representatives of State and the FHWA for a period of three (3) years following the date of final voucher to FHWA. Copies of such records and accounts shall be made available upon request. For real property and equipment, the retention period starts from the date of disposition (49 CFR 18.42).
31. State shall request reimbursement, and Agency agrees to reimburse State, for federal-aid funds distributed to Agency if any of the following events occur:
- a) That right-of-way acquisition or actual construction of the facility for which preliminary engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which the federal-aid funds were authorized;

- b) That right-of-way acquisition is undertaken utilizing federal-aid funds and actual construction is not started by the close of the twentieth fiscal year following the fiscal year in which the federal-aid funds were authorized for right-of-way acquisition.
 - c) That construction proceeds after the project is determined to be ineligible for federal-aid funding (e.g., no environmental approval, lacking permits, or other reasons).
32. Agency shall maintain all project documentation in keeping with State and FHWA standards and specifications. This shall include, but is not limited to, daily work records, quantity documentation, material invoices and quality documentation, certificates of origin, process control records, test results, and inspection records to ensure that projects are completed in conformance with approved plans and specifications.

RAILROADS

33. Agency shall follow State established policy and procedures when impacts occur on railroad property. The policy and procedures are available through the appropriate Region contact or Railroad & Utility Engineer. Only those costs allowable under 23 CFR 646B & 23 CFR 140I, shall be included in the total project costs; all other costs associated with railroad work will be at the sole expense of the Agency, or others. Agency may request State, in writing, to provide railroad coordination and negotiations. However, the State is under no obligation to agree to perform said duties.

UTILITIES

34. Agency shall cause to be relocated or reconstructed, all privately or publicly-owned utility conduits, lines, poles, mains, pipes, and all other such facilities of every kind and nature where such relocation or reconstruction is made necessary by the plans of the project in order to conform the utilities and other facilities with the plans and the ultimate requirements of the project. Only those utility relocations, which are eligible for federal aid participation under the FAPG, 23 CFR 645A, shall be included in the total project costs; all other utility relocations shall be at the sole expense of the Agency, or others. State will arrange for utility relocations/adjustments in areas lying within jurisdiction of State, if State is performing the preliminary engineering. Agency may request State in writing to arrange for utility relocations/adjustments lying within Agency jurisdiction, acting on behalf of Agency. This request must be submitted no later than 21 weeks prior to bid let date. However, the State is under no obligation to agree to perform said duties.
35. Agency shall follow established State utility relocation policy and procedures. The policy and procedures are available through the appropriate Region Utility Specialist or ODOT Right of Way Section's Railroad and Utility Coordinator.

STANDARDS

36. Design standards for all projects on the National Highway System (NHS) and the Oregon State Highway System shall be in compliance to standards specified in the current ODOT Highway Design Manual and related references. Construction plans shall be in conformance with standard practices of State for plans prepared by its own staff. All specifications for the project shall be in substantial compliance with the most current "Oregon Standard Specifications for Highway Construction".
37. Agency agrees that minimum design standards for non-NHS projects shall be recommended AASHTO Standards and in accordance with the current "Oregon Bicycle and Pedestrian Plan", unless otherwise requested by Agency and approved by State.
38. Agency agrees and will verify that the installation of traffic control devices shall meet the warrants prescribed in the "Manual on Uniform Traffic Control Devices and Oregon Supplements".
39. All plans and specifications shall be developed in general conformance with the current "Contract Road Plans Guide" and the current "Standard Specifications" and/or guidelines provided.
40. The standard unit of measurement for all aspects of the project will be System International (SI) Units (metric). This includes, but is not limited to, right-of-way, environmental documents, plans and specifications, and utilities.

GRADE CHANGE LIABILITY

41. Agency, if a County, acknowledges the effect and scope of ORS 105.755 and agrees that all acts necessary to complete construction of the project which may alter or change the grade of existing county roads are being accomplished at the direct request of the County.
42. Agency, if a City, hereby accepts responsibility for all claims for damages from grade changes. Approval of plans by State shall not subject State to liability under ORS 105.760 for change of grade.
43. Agency, if a City, by execution of agreement, gives its consent as required by ORS 373.030(2) to any and all changes of grade within the City limits, and gives its consent as required by ORS 373.050(1) to any and all closure of streets intersecting the highway, if any there be in connection with or arising out of the project covered by the agreement.

CONTRACTOR CLAIMS

44. Agency shall, to the extent permitted by State law, indemnify, hold harmless and provide legal defense for the State against all claims brought by the contractor, or others resulting from Agency's failure to comply with the terms of this agreement.

MAINTENANCE RESPONSIBILITIES

45. Agency shall, upon completion of construction, thereafter maintain and operate the project at its own cost and expense, and in a manner satisfactory to State and the FHWA.

WORKERS' COMPENSATION COVERAGE

46. Agency, its subcontractors, if any, and all employers working under this agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers, unless such employers are exempt under ORS 656.126. Agency shall ensure that each of its contractors complies with these requirements.

LOBBYING RESTRICTIONS

47. Agency certifies by signing the agreement that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed \$100,000, and that all such subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, US Code.

Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Paragraphs 34, 35, and 45 are not applicable to any local agency on state highway projects.

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 9-18-03

SUBJECT: Multnomah County Income Tax

AGENDA NUMBER OR TOPIC: _____

FOR: _____ AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Joe Gibson

ADDRESS: 1705 E Burnside

CITY/STATE/ZIP: Crashum Ore 97030

PHONE: DAYS: 503-572-7545 EVES: 503-572-7545

EMAIL: _____ FAX: _____

SPECIFIC ISSUE: Being fair to the Multnomah
County Taxpayer

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

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

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

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

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: September 18, 2003

Agenda Item #: R-1

Est. Start Time: 9:30 AM

Date Submitted: 08/13/03

Requested Date: September 18, 2003

Time Requested: 30 mins

Department: Health Department and Commission on Children, Families & Community

Contact/s: Jan Wallinder and Wendy Lebow

Phone: 503.988.3406 **Ext.:** Jan - 28844, Wendy - 86906 **I/O Address:** 160/8, 166/600

Presenters: Wendy Lebow, Fred King, Diane Ruminski and Jan Wallinder

Agenda Title: Briefing on Multnomah County Healthy Start program.

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

- 1. What action are you requesting from the Board? What is the department/agency recommendation?**

Informational only, no action requested.

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

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

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

If a budget modification, explain:

- ❖ **What revenue is being changed and why?**
- ❖ **What budgets are increased/decreased?**

- ❖ What do the changes accomplish?
 - ❖ Do any personnel actions result from this budget modification? Explain.
 - ❖ Is the revenue one-time-only in nature?
 - ❖ If a grant, what period does the grant cover?
 - ❖ When the grant expires, what are funding plans?
- NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)**

If a contingency request, explain:

- ❖ Why was the expenditure not included in the annual budget process?
- ❖ What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?
- ❖ Why are no other department/agency fund sources available?
- ❖ Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.
- ❖ Has this request been made before? When? What was the outcome?

If grant application/notice of intent, explain:

- ❖ Who is the granting agency?
- ❖ Specify grant requirements and goals.
- ❖ Explain grant funding detail – is this a one time only or long term commitment?
- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

4. Explain any legal and/or policy issues involved.
5. Explain any citizen and/or other government participation that has or will take place.

Required Signatures:

Department/Agency Director:



Date: 08/19/03

Budget Analyst

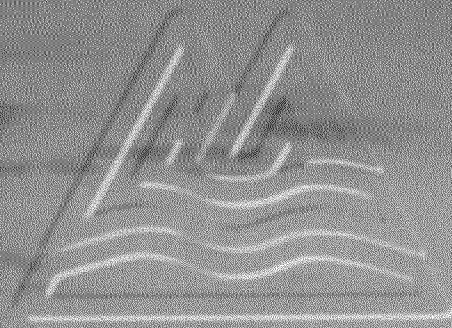
By: _____

Date:

Dept/Countywide HR

By: _____

Date:



Healthy Start

System of Support for
Families with Young
Children

Early Childhood Framework

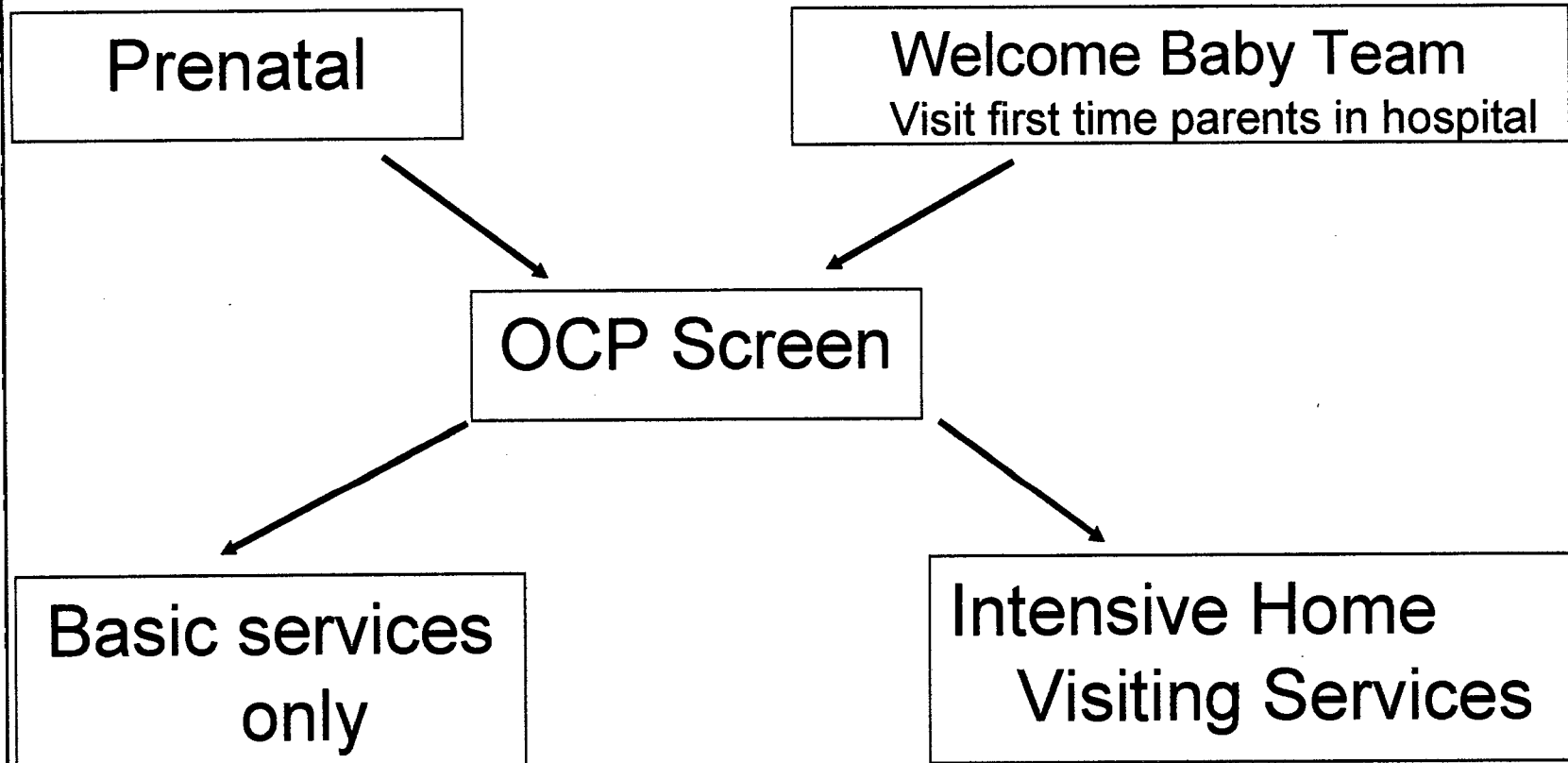
Vision: *All Children Develop to their Full Potential*

- Goals**
1. The community nurtures children and families
 2. Families nurture their children
 3. Strengthening high risk families
 4. Child care meets children's and families' needs
 5. Children succeed in their early education
 6. The early education system of care meets community needs

Health Department Early Childhood Services

- **Home Visits**
 - Case management, parenting education, developmental screening, health education, referral
- **Classes**
 - Childbirth, parenting, infant massage, nutrition, community resources
- **Community Partnerships**
 - Connections Teen Parent, Parent Child Development Services, Head Start, Family Resource Centers

Healthy Start Screening Services



Healthy Start

Intensive Home
Visiting Services

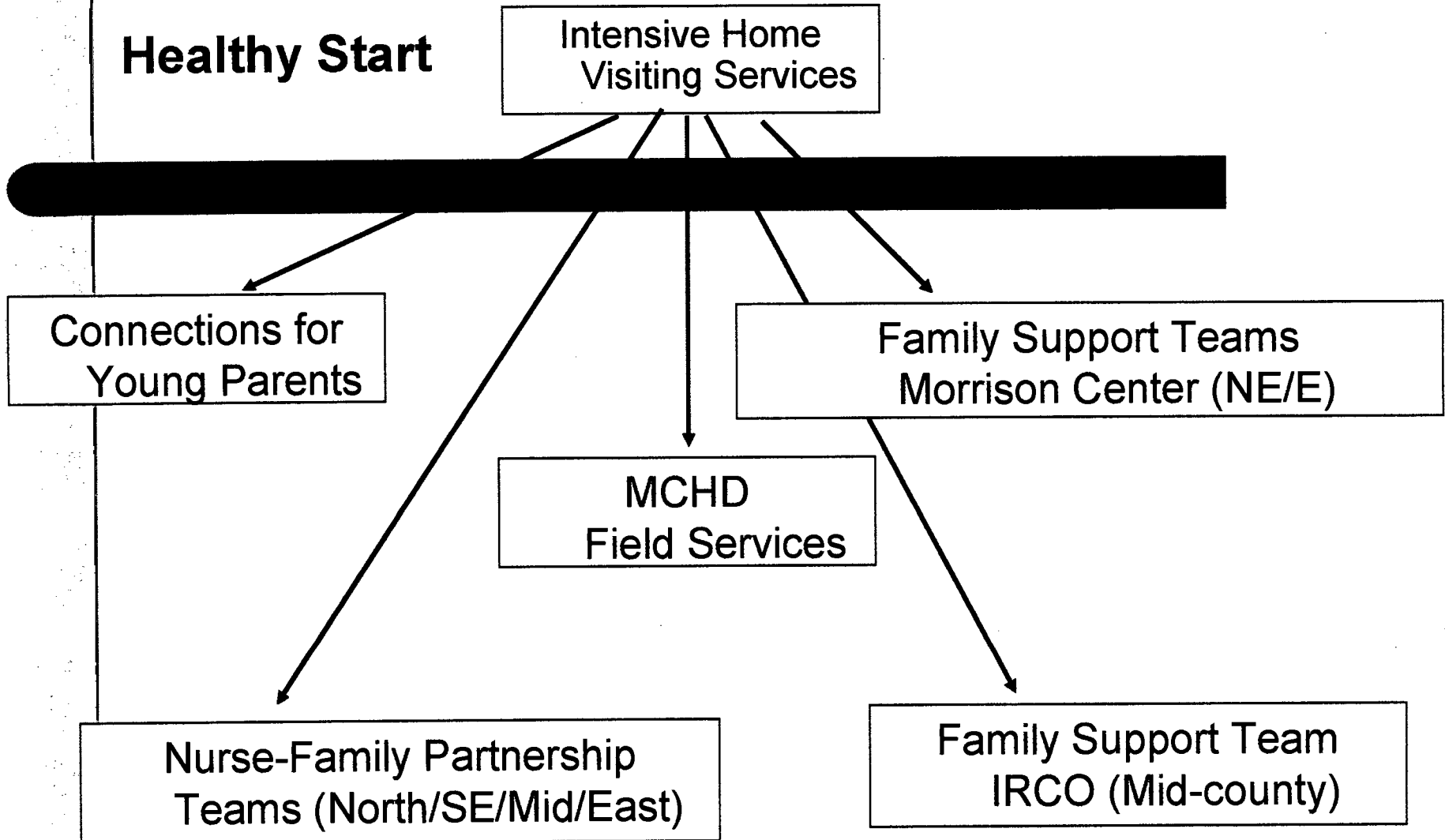
Connections for
Young Parents

Family Support Teams
Morrison Center (NE/E)

MCHD
Field Services

Nurse-Family Partnership
Teams (North/SE/Mid/East)

Family Support Team
IRCO (Mid-county)



Healthy Start clients served


January through August 2003

Number of clients contacted	1,550
Number of clients screened	1,296
Number of clients declined screening	254
Number of clients receiving basic services only	625
Number of clients referred for intensive home visiting service	671

Number of clients referred for intensive home visiting services: 671

Connections	42
General Field Services	134
International Refugee Community Organization (IRCO) (Mid County)	143
Morrison Center (East)	129
Morrison Center(Northeast)	94
Nurse-Family Partnership Teams	123
Other	6

Evaluation

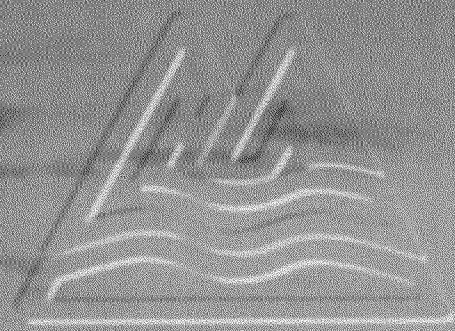
1. Statewide evaluation
 2. Local quality assurance
- 

Purpose:

- Description of the program roll-out, referral process
- Demographic description of program participants
- Engagement in services
- Characteristics of underserved populations
- Outcome data

Information for:

- Healthy Start Advisory Group, (advisory to Health Department, Oregon Commission on Children and Families, Multnomah County Board of Commissioners.



Healthy Start

System of Support for
Families with Young
Children



Early Childhood Framework



Vision: *All Children Develop to their Full Potential*

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Healthy Start Screening Services

Prenatal

Welcome Baby Team
Visit first time parents in hospital

OCP Screen

Basic services
only

Intensive Home
Visiting Services



Healthy Start

Intensive Home
Visiting Services

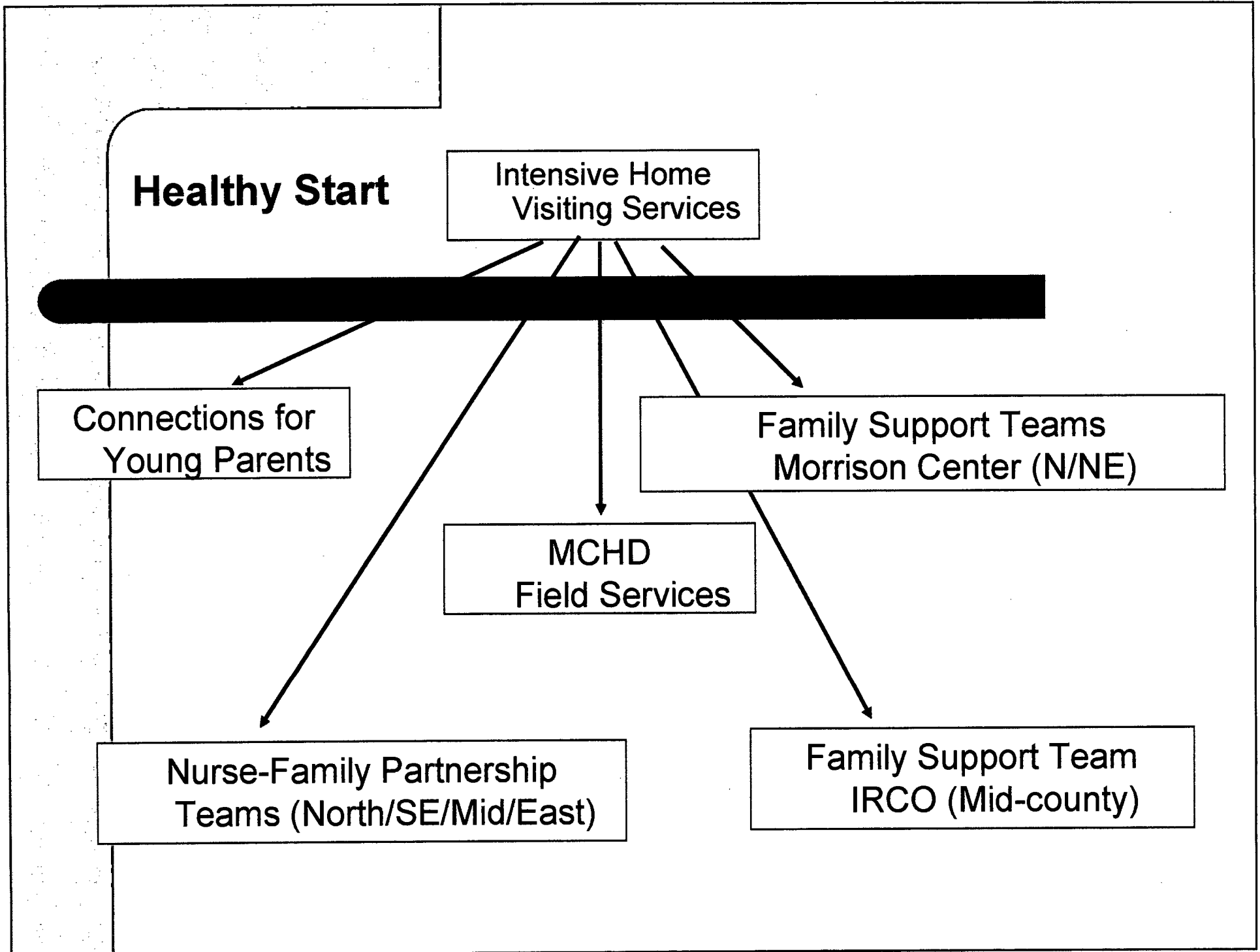
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Other	6

Evaluation

1. Statewide evaluation
2. Local quality assurance

Purpose:

- Describe program roll-out, referral process
- Find ways to improve program
- Describe program participants, underserved populations
- Examine differences in delivery models
- Examine differences in outcomes for client group

Information for:

- Healthy Start Advisory Group, (advisory to Health Department) Oregon Commission on Children and Families, Multnomah County Board of Commissioners.

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: September 18, 2003

Agenda Item #: R-2

Est. Start Time: 10:00 AM

Date Submitted: 08/21/03

Requested Date: September 18, 2003

Time Requested: 15 minutes

Department: DBCS

Division: Land Use & Transportation

Contact/s: Derrick Tokos

Phone: 503-988-3043

Ext.: 22682

I/O Address: 455/116

Presenters: Derrick Tokos

Agenda Title: An Ordinance Amending the Comprehensive Plan Map and Zoning Map of the West Hills Rural Area Plan to Change the Plan and Zoning Designation of a 9.29 Acre Property from Exclusive Farm Use (EFU) to Commercial Forest Use (CFU-2)

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

-
1. **What action are you requesting from the Board? What is the department/agency recommendation?** Action requested is to change the comprehensive plan and zoning map designation of a 9.29 acre property from farm to forest. The proposed map change is shown on Exhibits C and D of the attached Ordinance. The change is also shown on Exhibits 2 and 7 of the Staff Report that was provided to the Planning Commission. This Staff Report is attached to this Agenda Placement Form as Exhibit A.

The Multnomah County Planning Commission and staff recommend adoption of the proposed plan map and zoning map amendment. The Planning Commission Resolution which contains the recommendation is attached to the Ordinance as Exhibit B.

2. **Please provide sufficient background information for the Board and the public to understand this issue.** The subject property is located on the north side of Skyline Blvd. and slopes steeply to the north. The property has been harvested and replanted, the soils on the property are not suited to farm use but are suited to forest use, and there is no history of farming on the property. The characteristics of the property are not

consistent with those used to designate farm land in Framework Plan Policy 9, whereas they are consistent with the characteristics of forest land in Policy 11. The predominate adjacent land use to the north and east of the property is forest management of forest zoned land. Farmland in the EFU zone is located across Skyline Blvd. to the south, and for a short distance along the west property line.

The subject property was zoned EFU during the county's rural lands planning effort between 1975 and 1980 to come into compliance with the statewide planning goals. The property is part of a larger area where the present plan and zoning designations of EFU land were adopted in August of 1980. At that time, the subject property was part of a larger parcel that was bisected by Skyline Blvd., and the larger portion was on the south side of the road and was in farm use. Staff believes the subject parcel was zoned for farming because it was part of this larger farmed parcel at the time.

Attachments to this agenda item include:

Exhibit A. the Staff Report which contains the findings adopted by the Planning Commission, and the exhibits attached thereto including:

1. Applicant's submittal dated May 8, 2003 and attachments.
2. Tax Assessor's property map and proposed new zone boundary.
3. 1995 Non-farm dwelling approval, CU 9-95.
4. Soil Survey of Multnomah County, soils 17E, 7C, and 7D.
5. Soil Productivity for Douglas Fir Yields.
6. Oregon Agriculture: Facts and Figures 2000.

3. Explain the fiscal impact (current year and ongoing). No identified fiscal impact

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

If a budget modification, explain:

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- ❖ **If a grant, what period does the grant cover?**
- ❖ **When the grant expires, what are funding plans?**
- ❖ **How will the county indirect and departmental overhead costs be covered?**

4. **Explain any legal and/or policy issues involved.** The primary policy issue is that staff and the Planning Commission believe that it is in the public interest that the zoning of the subject property should reflect the true capability of the property. In this case it is forest management, not farming. Newspaper notice of this action will be placed in the Oregonian on August 28, 2003
5. **Explain any citizen and/or other government participation that has or will take place.** The reviewing state agency, the Department of Land Conservation and Development was notified of the request by mail on May 22, 2003, and staff has received no response from that agency. Notification of the request and Planning Commission public hearing was provided to property owners within 750' of the property and interest groups, and no comment has been received to date.

Required Signatures:



Department/Agency Director:

Date: 08/21/03

Budget Analyst

By: _____

Date:

Dept/Countywide HR

By: _____

Date:



MULTNOMAH COUNTY OREGON

LAND USE AND TRANSPORTATION PROGRAM

1600 SE 190TH Avenue Portland, OR 97233

PH: 503-988-3043 FAX: 503-988-3389

http://www.co.multnomah.or.us/dbcs/LUT/land_use

Staff Report

Quasi-Judicial Plan and Zone Change

Case File: T4-03-001

Scheduled Before: The Multnomah County Planning Commission

Hearing Date, Time, & Place: August 4, 2003 at the Planning Commission Hearing that starts at 6:30 P.M. in Room 100 of the Multnomah County Building located at 501 SE Hawthorne Blvd., Portland, OR

Proposal: A request for a Comprehensive Plan map and Zoning Map amendment of the West Hills Rural Area Plan to change the plan and zoning designation of a 9.29 acre property from Exclusive Farm Use (EFU) to Commercial Forest Use (CFU-2).

Location: 11410 NW Skyline Blvd.
1N1W06A -00300 (R961060590)

Applicant: Phil Werner
4032 SE Ozark Ct.
Hillsboro, OR 97123

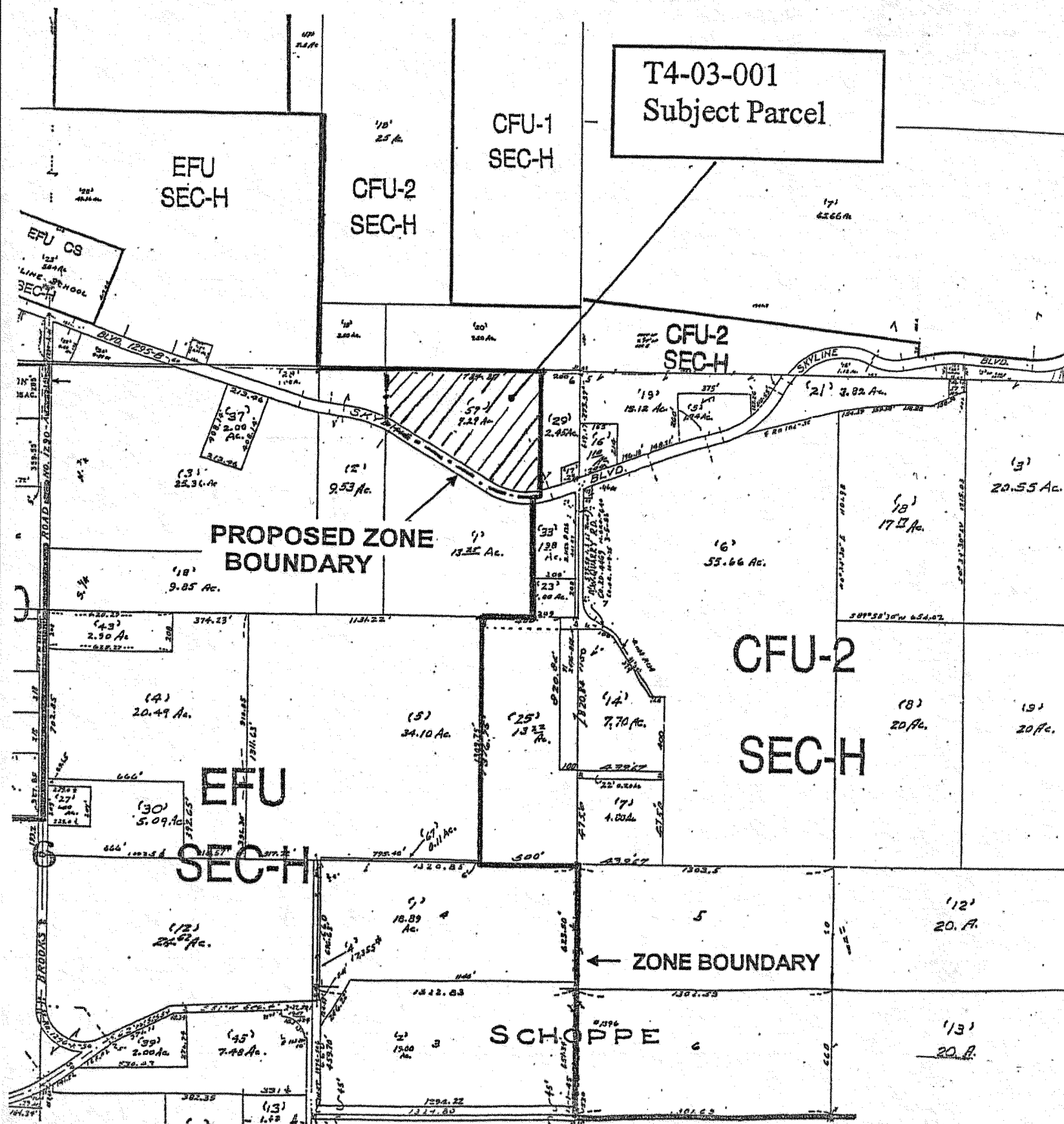
Owner: Paul and Bonnie Gill
9575 N. Tyler
Portland, OR 97203

Site Size: 9.29 acres

Present Zoning: Exclusive Farm Use (EFU)
Significant Environmental Concern, Wildlife Habitat (SEC-h)

Approval Criteria: Multnomah County Code (MCC): MCC 37.0705 Type IV Quasi-Judicial Plan and Zone Change Criteria, Framework Plan Policies 9 Agricultural Land Area, and 11 Commercial Forest Land Area.

Exhibit D. Ordinance No. _____



Staff Recommendation:

Approve the requested change from EFU to CFU-2.

Findings of Fact

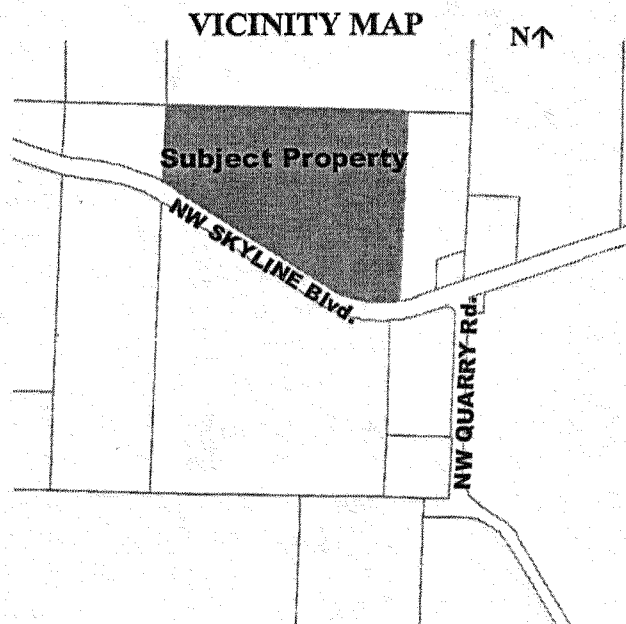
Note: Staff provides Findings as necessary to address the Multnomah County ordinance requirements referenced herein. Headings for each finding are underlined. Multnomah County Code requirements are referenced using a **bold** font. Written responses by the applicant, demonstrating compliance with code criteria, are labeled "Applicant". Planning staff comments and analysis may follow applicant responses. Where this occurs, the notation "Staff" precedes the comments.

1. Project Description:

Staff: The applicant is requesting a map and zone change of the 9.29 acre vacant parcel in order to pursue approval of a dwelling in the future. The proposed new zone boundary is shown on Exhibit 2. The property was approved for a non-farm dwelling in 1995, casefile CU 9-95, under EFU zoning code provisions that are no longer in effect (see Exhibit 3). However, the approval has since expired. If the amendment is ultimately approved, a Conditional Use permit for a dwelling would need to be approved, along with a Significant Environmental Concern Permit, and a Hillside Development or Grading and Erosion Control permit.

2. Site and Vicinity Characteristics:

Staff: The subject parcel is located along the north side of NW Skyline Blvd., a distance of approximately one-half mile west of the City of Portland UGB. The site is in an area where the road follows the ridge line. Land to the south contains moderate slopes and a mix of fields and forested areas, and land on the north along the property frontage is steeply sloping and forested. The applicant indicates that 86% of the subject property contains soils in a soil series characterized by slopes ranging from 30 to 60% (Goble 17-E) (see Exhibit 1 Attachment 1, and Exhibit 4). Dwellings in this area are arranged along the road and are relatively frequent since most parcels contain dwellings. The subject parcel contains no structures, but is improved with an access road to the dwelling site, and a well. These were developed under prior approvals that have since expired.



3. Compliance With Initiation of Application and Notice Requirements:

Staff: MCC 37.0550 Initiation of Action requires that an application can only be initiated by written consent of the owner of record or contract purchaser. The owners of record are Paul and Bonnie Gill, and they have signed the application form, satisfying this requirement.

The application is governed by the notification procedures for Type IV applications as provided in MCC 37.0530(D), and the required newspaper notice and mailed property owner notices have been provided. Signs have been provided to the applicant for posting as required in MCC 37.0630.

4. Compliance With Quasi-Judicial Plan Revision Criteria:

Staff: The Multnomah County Comprehensive Plan Map is the same as the Zoning Map, therefore an amendment to the zoning map also requires amendment of the plan. MCC 37.0705(A) provides that for a plan map amendment, the burden is upon the person initiating a plan revision to persuade that the following standards are met:

- A. **MCC 37.0705(A)(1) The plan revision is consistent with the standards of ORS 197.732 if a goal exception is required, including any OAR's adopted pursuant to these statutes;**

Applicant: N/A

Staff: The proposed change from a farm resource zone to a forest resource zone does not entail an exception to either goal, therefore this provision does not apply. Oregon Administrative Rule OAR 660-006-015 Plan Designation Outside an Urban Growth Boundary is the controlling law on this issue because the matter of rezoning from agricultural to forest land is not addressed in the County Framework Plan or Zoning Code. OAR 660-006-015(2) provides:

“When lands satisfy the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation.”

While in this case, it is not clear from the record of the original plan and zoning designation process why the subject property was zoned EFU (ie. why it meets the definition of agricultural land), the findings herein do show why it meets the definition of forest land. The proposed plan and zone change is therefore allowed under this OAR.

- B. **MCC 37.0705(A)(2) The proposal conforms to the intent of the relevant policies in the comprehensive plan or that the plan policies do not apply. In the case of a land use plan map amendment for a commercial, industrial, or public designation, evidence must also be presented that the plan does not provide adequate areas in appropriate locations for the proposed use; and**

Applicant: We have identified Plan Policies 9 and 11 to be relevant in this proposal.

Policy 9: Agricultural Land Area

The County's policy is to designate and maintain as exclusive agricultural land, areas which are:

Predominately agricultural soil capability I, II, III and IV, as defined by U. S. Soil Conservation Service:

95 percent of this parcel is mapped as class VI and VII soils. The three soils types located on the subject property are; Cascade silt loam (7C), Cascade silt loam (7D), and Goble silt loam (17E). Only Cascade silt loam (7C) is considered high value farmland soil, this soil type is found in less than 4 percent of the total land area of this property. Approximately 15 percent of the property is mapped Cascade silt loam (7D) and is not designated as high value farmland. This soil type resides in a narrow strip that wraps around the entire southern and western boundaries in a strip that does not exceed 200 feet in width. 86 percent of the parcel is mapped as Goble silt loam (17E). This is a type VI soil and is not considered suitable for farming. See attachment 1.

Of parcel sizes suitable for commercial agriculture;

The parcel is approximately 10 acres, a parcel of this size is considered relatively small for a farm operation, according to the 1987 Census of Agricultural statistics. The amount of land that is level enough for cultivated crops is no more that one acre. Even the area mapped as 7D with 15 to 30 percent slopes is too steep for cultivated crops. Nearly 90 percent of the parcel is too steep and the slopes to fragile to consider it suitable for livestock. Steep topography throughout most of the site diminishes the possibility of productive farming. Nearby farm operations are 15 -40 acres that have slopes that are less that 15 percent.

In predominately commercial agricultural use;

The surrounding land is forestland and predominately zone CFU-2, see attachment 2. The nearest farm operation is approximately 350' feet away to the south, is a 13.25-acre parcel and is separated by Skyline Boulevard.

Not impacted by urban service;

This parcel is not located in an urban area and will not be impacted by urban service.

Other areas, predominately surrounded by commercial agricultural lands which

are necessary to permit farm practices to be undertaken on these adjacent lands;

Activities associated with the proposed property should not significantly affect farm operations on adjacent properties. No farm activities occur to the north, east or west of the property. The subject site is approximately 350' away from the nearest farming operation. This farm area is a 13.25-acre parcel to the south and is separated by Skyline Boulevard. This farm operation does not require access onto or through the subject property.

Staff: Generally agrees with the applicant's analysis and identification of Policies 9 and 11 as applicable to this request. The intent of Policy 9 is to designate agricultural land (as defined by the elements above) with EFU zoning. The property contains predominately non-farm soils in that approximately 86% of the parcel is designated as Class VIe, series 17E, a soil that is not rated for farming under both the policy and in the Soil Conservation Service manual (see Exhibit 4). The parcel size is smaller than most other parcels in the EFU zoned area west to Brooks Rd. that are used for commercial farming. According to Oregon Department of Agriculture statistics for the year 2000, only 21.2% of farm operations in the state are in the less than 10 acre size category (see Exhibit 6). The subject property is not in farm use or impacted by urban services.

Finally, the parcel is not predominately surrounded by farm lands and is separated and buffered from farm lands to the south by Skyline Blvd. The one property frontage that is adjacent to a farmed area is the west lot line, which borders the farmed area for a distance of 288'. The other two forest land frontages total 1,443 feet, therefore the property is predominately surrounded by forest, not farm lands. These characteristics of the parcel support a finding that it is not farmland as defined in Policy 9. Since it does not contain the elements that Policy 9 sets out to designate EFU land, the intent of Policy 9 is not served with the property in EFU zoning.

Applicant:

Policy 11: Commercial Forest Land Area

The County's policy is to designate and maintain as commercial forestland, areas which are:

Predominately in Forest Cubic Foot Site Class I, II and III for Douglas Fir as classified by the U. S. Soil Conservation Service;

The surrounding land is predominately zoned CFU-2 and the soil conditions on this property are suitable for the growth of Douglas Fir.

Suitable for commercial forest use and small woodlot management;

Due to the soil conditions the site is currently being managed as a small woodlot.

Potential reforestation areas, but not, at the present, used for commercial forestry;

Timber on this property was harvested about 10 years ago and reforestation of 2850 Douglas Fir trees occurred at that time.

Not impacted by urban services;

The property is not located in an urban area and will not be impacted by urban services.

Cohesive forest areas with large parcels;

Parcels to the north, east and west are large parcels that are commercial forestlands zoned CFU-2.

Other areas which are:

Necessary for watershed protection or are subject to landslides, erosion or slumping; or

Wildlife and fish habitat areas, potential recreation areas, or are of scenic significance.

The subject site is typified by steep slopes in all but a few areas. The entire parcel is identified as a hazard area on the Multnomah County Slope Hazard Map. Landslides, erosion or slumping are possibilities due to the topography of the parcel, but not expected.

The subject property is designated as containing significant wildlife habitat (SEC-h). Maintaining the current woodlot through reforestation will enhance the wildlife habitat and will increase the scenic significance.

Staff: Agrees with the applicant's analysis. The primary soil on the property, Goble silt loam 17E, is used for timber production, urban development, and wildlife habitat, and is rated as Site Class III for Douglas Fir according to the Soil Conservation Service Survey (see Exhibits 4 and 5). The Soil Survey does not rate the on-site soils for farming. The parcel is managed as small woodlot as evidenced by the recent harvest and replanting, and forms part of the south edge of a larger block of forest land. Designating the parcel as forest land is consistent with Policy 11 because it is consistent with the elements in Policy 11 the plan uses to designate forest land.

C. MCC 37.0705(3) The uses allowed by the proposed changes will:

- (a) Not destabilize the land use pattern in the vicinity;**
- (b) Not conflict with existing or planned uses on adjacent lands; and**
- (c) That necessary public services are or will be available to serve allowed uses.**

Staff: The analysis provided by the applicant below describes how the uses allowed in MCC 33.2220 (permitted uses in the proposed CFU-2 zone) would not destabilize the land use pattern, not conflict with uses on adjacent lands, and would be supported by necessary

services. This analysis is properly limited to uses allowed in the zone versus review and conditional uses since there is potential for the uses in the "allowed" category to occur with limited or no review. Staff notes that uses allowed in the CFU zone that result in structures are also subject to compliance with dimensional requirements and development standards, and these are generally intended to limit impacts to forest management or to minimize fire loss. In addition, the review and conditional uses which could be allowed are subject to approval criteria that accomplish essentially the same objectives that are listed in this criterion.

Staff defines the vicinity within which the land use pattern should be evaluated as the 750' notification area. This results in an impact area of over 2,300 feet along Skyline Blvd. The vicinity can be relatively small because nearly all of the subject property is below the level of Skyline Blvd. thereby shielding uses south of the road from the property. Steep slopes to the west and east also limit exposure of existing adjacent uses to the developable part of the property which is a knoll near the south-central portion. The nearest other structure north of the property is approximately 4,000 feet away, which is further than reasonably necessary to assess impact under this criterion. Dwellings, farming, and timber management are the uses that exist on adjacent lands. Most of the parcels already have dwellings, and staff is unaware of any planned uses other than farming or timber management on adjacent lands.

Staff adds that the applicant's responses in some instances consider the intended use of the property, which is for a single family dwelling. The intended use is not generally relevant to the question that must be answered under this criterion, which is the potential impacts of allowed uses on other land uses in the vicinity.

Applicant: Allowed uses under the CFU-2 zoning are:

(A) Forest operations or forest practices, including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of forest tree species, application of chemicals and disposal of slash; temporary onsite structures which are auxiliary to and used during the term of a particular forest operation; or physical alterations to the land auxiliary to forest practices including, but not limited to, those purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities:

The soil on the majority of the property is Goble Silt Loam (17E). This soil type, according the Soil Survey of Multnomah County, is best suited for the growth of Douglas Fir trees. Reforestation of the property occurred about five years ago with the planting of approximately 3000 Douglas Fir trees. The adjacent properties are currently zoned as CFU-2 and are used in a manner consistent with the plan policies. There is an existing logging road into the property, which provides log trucks access to interior parcels for forest practices. At this time there is no active harvesting of forest tree species on the subject property or the adjacent CFU-2 zoned properties.

At this time there is no active forest operation on this property or adjacent properties; therefore, there is not a need for a temporary on site structure to be using during the term of any forest practice. In the future if forest operations commence, a temporary on site structure may be placed on the property, and would be in accordance with the conditions of the allowed uses under MCC 33.2215.

Based on the soil type and the current use of the subject property and adjacent lands changing the zoning will not destabilize the land pattern use in the vicinity. Although, the current zoning for the property is EFU, it is being used in a manner consistent with the policies of CFU-2 zoning.

Changing the zoning on this property will not conflict with the planned uses of adjacent lands as the use of this property and the adjacent properties is consistent with the policies of CFU-2 zoning. The nearest farm is located approximately 350' away and is separated by Skyline Boulevard. This farm operation does not require access onto or through the subject property. There is no evident conflict with existing or planned uses on adjacent lands.

As stated above there is an existing logging road to serve the logging operations that may occur on the subject property. Power, telephone, natural gas and water are also available to serve the needs of existing or future forest operations.

(B) A temporary portable facility for the primary processing of forest products;

Placing a temporary portable facility on this existing foundation will not destabilize the land use patterns in the vicinity, as the lands adjacent are predominately zone CFU-2 and used in a manner consistent with the CFU-2 plan policy.

There is no apparent conflict with the adjacent properties, which are zoned predominately CFU-2, by placing a temporary portable facility on the subject site property for the intent of processing forest products.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(C) Farm use, as defined by ORS 215.203;

Farming does occur on a parcel, approximately 350' away to the south of the subject property and is separated by Skyline Boulevard. Using the subject property for farming would not destabilize the land use in the vicinity. However, it was previously determined in Multnomah County Case File No. CU 9-95, that based on the configuration, steepness and limited and disjointed location of agriculturally rated soils make the reasonable use of this land for agriculture difficult.

The land use pattern along Skyline Boulevard is a diverse mix of parcel sizes and uses. Farm use on this property would not conflict with existing or planned uses on adjacent lands as there is a farm in operation on a parcel approximately 350 'away from the subject property. However, as previously stated, due to the configuration, steepness and limited agriculturally rated soils, agricultural use on this property would be difficult.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(D) Alteration, maintenance, or expansion of an existing lawfully established habitable dwelling is subject to the following:

The dimensional standards of MCC 33.2260 are satisfied; and

The development standards of MCC 33.2305(A)(5) are satisfied if the expansion exceeds 400 square feet of ground coverage.

This allowed use is not applicable in this proposal, as there is not an existing habitable dwelling on the subject site.

(E) Replacement of an existing lawfully established habitable dwelling on the same lot, subject to the following;

The replacement dwelling will be located within 200 feet of the existing dwelling; and

The existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling; and

The replacement dwelling shall satisfy the dimension standards of MCC 33.2260 and the development standards of MCC 33.2305.

This allowed use is not applicable in this proposal, as there will not be a replacement of an existing lawfully established habitable dwelling.

(F) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources, including a public or private wildlife and fisheries conservation area.

There is no apparent evidence that the allowed use of soil air and water quality will destabilize the land use pattern in the vicinity.

The subject property is designated as containing significant wildlife habitat (SEC-h). By changing the zoning to CFU-2, this allowed use would not destabilize the surrounding properties, but would enhance it by the

preservation and maintenance of the current woodlot. These practices will provide for an increased wildlife conservation area.

This use does not conflict with the land use pattern in the vicinity as the surrounding lands are predominately forested with reforestation having occurred.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(G) An uninhabitable structure accessory to fish and wildlife habitat;

This allowed use will not destabilize the land use pattern in the vicinity as the surrounding parcels are predominately forested woodlots with reforestation in process. This application of land use enhances the fish and wildlife habitat. At this time, there is no intent to place an uninhabitable structure accessory to fish and wildlife habitat on this property.

Adjacent lands are predominately zone CFU-2 and used in a manner consistent with that zone classification, there is no evidence that this allowed use will conflict with planned or existing uses on adjacent lands.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(H) A caretaker residence for a public park or a fish hatchery;

This allowed use is not being considered in this proposal as there is not an existing public park or fish hatchery on this property, nor is there the intent or resource to establish these uses.

(I) Local distribution lines (e. g., electric, telephone, natural gas, etc.) and accessory equipment (e. g. electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals) or equipment which provides service hookups, including water service hookups;

This allowed use will not destabilize or conflict with current land practices

(J) Climbing and passing lanes within the right-of-way existing as of July 1, 1987.

This allowed use is not being considered in this proposal, as there are not climbing and passing lanes on the subject property, nor is the subject property within the existing right of way.

(K) Reconstruction or modification of public roads and highways, not including the addition of vehicular travel lanes, where not removal or displacement of building will occur, or no new land parcels result;

This allowed use is not being considered in this proposal, as there is not a public road or highway on the subject property.

(L) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as not longer needed;

This allowed use is not being considered in this proposal, as there is not a temporary public road nor highway detour on the subject property.

(M) Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas, within a right-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

This allowed use is not being considered in this proposal, as there is not an existing public road and highway related facility on the subject property.

(N) A lookout tower for forest fire protection;

There is no apparent evidence that a lookout tower for forest fire protection would destabilize the land use pattern in the vicinity, as the adjacent properties are predominately forest land and would benefit from forest fire protection. There is no intent to place a lookout tower on the subject property; however, if this became necessary to preserve the current woodlot of the subject property and the adjacent properties, the owner would comply with the conditions set by the County.

Existing and planned land uses on the adjacent properties is predominately forest land and would benefit from forest fire protection in the event that a need should arise to install a lookout tower.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(O) A Water Intake facility, canal and distribution lines for farm irrigation and ponds;

A water intake facility, canal and distribution lines for farm irrigation and ponds will not destabilize the land use pattern in the vicinity as there is an active farm operation across Skyline Boulevard that could benefit from this allowed use. However, this is not being considered as the subject property and the adjacent properties are not being used in a manner consistent with this allowed use.

There is not an evident conflict with existing or planned uses on adjacent lands as the surrounding lands are predominately CFU-2, which does allow for

farm practices; however, the adjacent properties and subject property are not active farm operations.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(P) A temporary forest labor camp;

A temporary forest labor camp would not destabilize the land use pattern in the vicinity as it would be supporting a forest practice, which is consistent with the land uses on the adjacent properties. However, due to the size of the subject property, just under 10 acres, it would not support such an operation and there is no intent to establish this type of forest operation.

There is not an evident conflict with existing or planned uses on adjacent lands as the surrounding lands are predominately forest land zoned CFU-2 and could have active forest operations. A temporary forest labor camp on the subject property would be consistent with the current land use patterns in the area.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(Q) Exploration for mineral and aggregate resources as defined in ORS 517;

This allowed use is not being considered in this proposal, as there are no known mineral or aggregate resources on the subject property.

(R) Exploration for geothermal resources;

This allowed use is not being considered in the proposal, as there are no known geothermal resources on the subject property.

(S) A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings necessary for its operation.

This allowed use is not being considered in this proposal, as the subject site has not been ordered a solid waste disposal by the Environmental Quality Commission.

(T) Type A home occupations pursuant to the definition and restrictions of MCC 33.0005 (H)(6)(a) and 33.2245. Home occupations as defined by MCC 33.0005 (H) (6)(a) do not allow the level of activity defined in ORS 215.448;

This allowed use will not destabilize the land use pattern in the vicinity as the owners shall comply with the definitions and restrictions set forth in MCC 33.0005 (H)(6)(a) and MCC 33.2245 if a Type A home occupation is considered.

This allowed use will not conflict with the existing or planned uses on adjacent lands as the owners shall comply with the definitions and restrictions set forth in MCC 33.0005 (H) (6)(a) and MCC 33.2245 if a Type A home occupation is considered.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(U) Other structures or uses determined by the Planning Director to be customarily accessory or incidental to any use permitted or approved in this district.

n/a

(V) Actions taken in response to an emergency/disaster event as defined in MCC 33.0005 pursuant to the provisions of MCC 33.0535;

n/a

Staff: Agrees with the applicant's analysis and finds this requirement is met. A large portion of the uses allowed in the CFU-2 zone also allowed in the EFU zone. These include farm or forest management, mineral exploration, existing dwellings, public services including roads and service lines, emergency response actions. For these uses, the change from EFU to CFU-2 has no greater potential adverse impact. The additional uses which could occur under a CFU-2 zone designation include temporary forest management uses, a lookout tower, wildlife conservation related uses, water intake facilities and a solid waste disposal site.

The most likely potential impacts to properties in the vicinity from the remaining uses is noise and traffic along Skyline. The topography of the property effectively isolates it from noise to the south, and there are no uses within the vicinity to the north except for forest management. Given the temporary aspect of many of the forest management uses, staff finds it is not likely they would significantly impact the uses to the east and west due to noise, and any traffic impacts would be temporary. The one potential allowed use that could destabilize the land use pattern or conflict with existing or planned uses is if DEQ (EQC) were to designate the site for solid waste disposal. Given the necessity to contain solid waste in these sites, and given the topography of the property, staff does not believe the subject property would be chosen for this use.

- D. **MCC 37.0705(A)(4) Proof that circumstances in the area affected by the proposed revision have changed since adoption of the plan, or that there was a mistake in the plan, are additional relevant factors which may be considered under this subsection.**

Applicant: Based on the Soil Survey of Multnomah County, 95 percent of this parcel is mapped as class VI and VII soils. The three soils types located on the subject property are; Cascade silt loam (7C), Cascade silt loam (7D), and Goble silt loam (17E). Only Cascade silt loam (7C) is considered high value farmland soil. This soil type is found in less than 4 percent of the total land area of this property. Approximately 15 percent of the property is mapped Cascade silt loam (7D) and is not designated as high value farmland. This soil type resides in a narrow strip that wraps around the entire southern and western boundaries in a strip that does not exceed 200 feet in width. 86 percent of the parcel is mapped as Goble silt loam (17E). This is a type VI soil and is not considered suitable for farming. See attachment 1.

The subject property is approximately 10 acres, a parcel of this size would be considered relatively small for a farm according to the 1987 Census of Agricultural statistics. The amount of land that is level enough for cultivated crops is no more than one acre. Even the area mapped as 7D with 15 to 30 percent slopes is too steep for cultivated crops. Nearly 90 percent of the parcel is too steep and the slopes too fragile to consider it suitable for livestock. Steep topography throughout most of the site diminishes the possibility of productive farming.

Based on the configuration, steepness and limited agriculturally rated soils, agricultural use on this property would be difficult at best, it is our position that this site is inappropriately zoned as EFU. The current use of the subject property is small woodlot management, the land use pattern of the adjacent land is also forest management. Changing the zone from EFU to CFU-2 would be more consistent with the manner in which the land is used.

Staff: Agrees with the information and conclusion of the applicant. The subject parcel was part of a larger 22 acre farm parcel that was bisected by Skyline Blvd. up until 1979 when it was divided along the road (Bk 1330 pg 1240). The division resulted in a 13.25 acre parcel south of Skyline that is still farmed, and the 9.29 acre subject parcel. At the time the land was divided, the entire parcel was zoned MUA-20. The parcel was part of a larger block of land that the county proposed for exception (MUA-20) zoning, a designation the Department of Land Conservation and Development did not agree with. Zoning in this area was finally resolved in August of 1980 when the county rezoned the area EFU. Staff was unsuccessful in a search for information in the record that could explain why the forested portion of the parcel was zoned the same as the farmed part, given the obvious differences in the land. Staff believes the most likely explanation is that the properties in this area were designated based on the predominate use of the parcel, which in this case was farming, and the partition in 1979 did not show up on the Assessor's maps until sometime later after the property was zoned EFU.

5. Compliance With Quasi-Judicial Plan Revision Criteria:

Staff: MCC 37.0705(B) provides that when evaluating a proposed zone change request, the burden upon the person initiating a plan revision is to persuade that the following standards are met:

A. MCC 37.0705(B)(1) Granting the request is in the public interest;

Applicant: The Planning Commission establishes land zoning classification guidelines to preserve valuable land from inappropriate and incompatible use. It is the public's interest to maintain valuable agricultural and forestlands from inappropriate use. The public interest is best served when land is zoned correctly and used in the correct manner consistent with the guidelines of that zone.

Staff: Agrees. The applicant's comparison of the elements the county uses to designate farm land in Policy 9 with those used to designate forest land in Policy 11 under part 3. above demonstrates that the property does not fit the farmland designation.

B. MCC 37.0705(B)(2) There is a public need for the requested change and that need will be best served by changing the classification of the property in question as compared with other available property;

Applicant: The subject property is one of the only parcels in the area zoned as EFU and is nearly surrounded by forest lands zoned CFU-2. The Planning Commission's intent is to ensure that the land in their district is properly zoned, this serves public's interest by ensuring valuable land resources are not inappropriately used. The public need is best served by changing the zoning on the subject property to a classification of CFU-2, which is more consistent with the type of land use pattern on this property and the surrounding properties.

Staff: Agrees.

C. MCC 37.0705(B)(3) The proposed action fully accords with the applicable elements of the Comprehensive Plan; and

Staff: The applicant has already addressed the applicable elements of the Comprehensive Plan under part 3 above. Those findings also demonstrate compliance with this criterion.

D. MCC 37.0705(B)(4) Proof of change in a neighborhood or community or mistake in the planning or zoning for the property under consideration are additional relevant factors to be considered under this subsection.

Applicant: It is our position that the zoning classification of EFU for this site is a

mistake. The attached aerial photo and the simple photos of the property taken by Phil Werner clearly show that this property is not intended for agricultural use. See attachment 3a -3d.

All studies done on the property have proved that the soil conditions, slope and current use of the site is not consistent with the guidelines of the zone classification EFU. Therefore, approval of a zone change to CFU-2 is requested.

Staff: Agrees. The findings in part 3. under MCC 37.0705(A)(4) are equally applicable here. A change that occurred is that during the original plan development and acknowledgement process, the property was partitioned from the parent farm parcel on the south side of Skyline Blvd. As stated above, staff has not found conclusive evidence but suspects the subject property was zoned farm due to common ownership at the beginning of the planning process.

Conclusion

Considering the findings and other information provided herein, staff recommends that the Planning Commission find that the applicant has carried the necessary burden of persuasion to show that the plan and zone change criteria are met.

Exhibit List

Exhibit 1: Applicant's submittal dated May 8, 2003, narrative and Attachments.

Attachment 1: Soils Map

Attachment 2: Zoning Map

Attachment 3a: Aerial photo with property owners.

Attachment 3b-e: Photos of site

Exhibit 2: Tax Assessor's property map and proposed new zone boundary.

Exhibit 3: 1995 Non-farm dwelling approval, CU 9-95.

Exhibit 4: Soil Survey of Multnomah County, soils 17E, 7C, and 7D.

Exhibit 5: Soil Productivity for Douglas Fir Yields

Exhibit 6: Oregon Agriculture: Facts and Figures 2000.

Appeal to the Board of County Commissioners:

A Planning Commission decision of denial may be appealed to the Board of County Commissioners (Board) by any person or organization who appears and testifies at the hearing, or by those who submit written testimony into the record. An appeal must be filed with the Land Use Planning Division within 14 calendar days from the date notice of the decision is provided to those entitled to notice. An appeal requires a completed "Notice of Review" and a fee of \$530.00. [ref. MCC 37.0640 Appeals] Instructions and forms are available at the County Planning Office at 1600 SE 190th Ave., Portland, or you may call 503-988-3043, for additional instructions.

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CLATSOP COUNTY
PLANNING SECTION

Application for Zone Change
11410 NW Skyline Boulevard
Portland, OR 97231

Case File: Pa-03-004

Phil and Amy Werner
4032 SE Ozark Ct.
Hillsboro, OR 97123
503-640-4335

May 8, 2003

EXHIBIT

1. 74-03001
ATTACHMENT 1-3

37.0705 Type IV Quasi-Judicial Plan and Zone Change Approval Criteria

(A) Quasi-judicial Plan Review Revision. The burden of proof is upon the person initiating a quasi-judicial plan revision. The burden shall be to persuade that the following standards are met:

1. **The plan revision is consistent with the standards of ORS 197.732 if a goal exception is required, including any OAR's adopted pursuant to these statutes;**

N/A

2. **The proposal conforms to the intent of the relevant policies in the comprehensive plan or that the plan policies do not apply. In the case of a land use plan map amendment for a commercial, industrial, or public designation, evidence must also be presented that the plan does not provide adequate areas in appropriate locations for the proposed use;**

We have identified Plan Policies 9 and 11 to be relevant in this proposal.

Policy 9: Agricultural Land Area

The County's policy is to designate and maintain as exclusive agricultural land, areas which are:

Predominately agricultural soil capability I, II, III and IV, as defined by U.S. Soil Conservation Service:

95 percent of this parcel is mapped as class VI and VII soils. The three soils types located on the subject property are; Cascade silt loam (7C), Cascade silt loam (7D), and Goble silt loam (17E). Only Cascade silt loam (7C) is considered high value farmland soil, this soil type is found in less than 4 percent of the total land area of this property. Approximately 15 percent of the property is mapped Cascade silt loam (7D) and is not designated as high value farmland. This soil type resides in a narrow strip that wraps around the entire southern and western boundaries in a strip that does not exceed 200 feet in width. 86 percent of the parcel is mapped as Goble silt loam (17E). This is a type VI soil and is not considered suitable for farming. See attachment 1.

Of parcel sizes suitable for commercial agriculture;

The parcel is approximately 10 acres, a parcel of this size is considered relatively small for a farm operation, according to the 1987 Census of Agricultural statistics. The amount of land that is level enough for cultivated crops is no more than one acre. Even the area mapped as 7D with 15 to 30 percent slopes is too steep for cultivated crops. Nearly 90 percent of the parcel is too steep and the slopes too fragile to consider it suitable for livestock. Steep topography throughout most of the site diminishes the possibility of productive farming. Nearby farm operations are 15 – 40 acres that have slopes that are less than 15 percent.

In predominately commercial agricultural use;

The surrounding land is forestland and predominately zone CFU-2, see attachment 2. The nearest farm operation is approximately 350' feet away to the south, is a 13.25-acre parcel and is separated by Skyline Boulevard.

Not impacted by urban service;

This parcel is not located in an urban area and will not be impacted by urban service.

Other areas, predominately surrounded by commercial agricultural lands which are necessary to permit farm practices to be undertaken on these adjacent lands;

Activities associated with the proposed property should not significantly affect farm operations on adjacent properties. No farm activities occur to the north, east or west of the property. The subject site is approximately 350' away from the nearest farming operation. This farm area is a 13.25-acre parcel to the south and is separated by Skyline Boulevard. This farm operation does not require access onto or through the subject property.

Policy 11: Commercial Forest Land Area

The County's policy is to designate and maintain as commercial forestland, areas which are:

Predominately in Forest Cubic Foot Site Class I, II and III for Douglas Fir as classified by the U.S. Soil Conservation Service;

The surrounding land is predominately zoned CFU-2 and the soil conditions on this property are suitable for the growth of Douglas Fir.

Suitable for commercial forest use and small woodlot management;

Due to the soil conditions the site is currently being managed as a small woodlot.

Potential reforestation areas, but not, at the present, used for commercial forestry;

Timber on this property was harvested about 10 years ago and reforestation of 2850 Douglas Fir trees occurred at that time.

Not impacted by urban services;

The property is not located in an urban area and will not be impacted by urban services.

Cohesive forest areas with large parcels;

Parcels to the north, east and west are large parcels that are commercial forestlands zoned CFU-2.

Other areas which are:

**Necessary for watershed protection or are subject to landslides, erosion or slumping;
or**

Wildlife and fish habitat areas, potential recreation areas, or are of scenic significance.

The subject site is typified by steep slopes in all but a few areas. The entire parcel is identified as a hazard area on the Multnomah County Slope Hazard Map. Landslides, erosion or slumping are possibilities due to the topography of the parcel, but not expected.

The subject property is designated as containing significant wildlife habitat (SEC-h). Maintaining the current woodlot through reforestation will enhance the wildlife habitat and will increase the scenic significance.

3. The uses allowed by the proposed changes will:
 - a. Not destabilize the land use pattern in the vicinity;
 - b. Not conflict with existing or planned uses on adjacent lands; and
 - c. That the necessary public services are or will be available to serve allowed uses.

Allowed uses under the CFU-2 zoning are:

(A) Forest operations or forest practices, including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of forest tree species, application of chemicals and disposal of slash; temporary on-site structures which are auxiliary to and used during the term of a particular forest operation; or physical alterations to the land auxiliary to forest practices including, but not limited to, those purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities:

The soil on the majority of the property is Goble Silt Loam (17E). This soil type, according to the Soil Survey of Multnomah County, is best suited for the growth of Douglas Fir trees. Reforestation of the property occurred about five years ago with the planting of approximately 3000 Douglas Fir trees. The adjacent properties are currently zoned as CFU-2 and are used in a manner consistent with the plan policies. There is an existing logging road into the property, which provides log trucks access to interior parcels for forest practices. At this time there is no active harvesting of forest tree species on the subject property or the adjacent CFU-2 zoned properties.

At this time there is no active forest operation on this property or adjacent properties; therefore, there is not a need for a temporary on site structure to be using during the term of any forest practice. In the future if forest operations commence, a temporary on site structure may be placed on the property, and would be in accordance with the conditions of the allowed uses under MCC 33.2215.

Based on the soil type and the current use of the subject property and adjacent lands changing the zoning will not destabilize the land pattern use in the vicinity. Although, the current zoning for the property is EFU, it is being used in a manner consistent with the policies of CFU-2 zoning.

Changing the zoning on this property will not conflict with the planned uses of adjacent lands as the use of this property and the adjacent properties is consistent with the policies of CFU-2 zoning. The nearest farm is located approximately 350' away and is separated by Skyline Boulevard. This farm operation does not require access onto or through the subject property. There is no evident conflict with existing or planned uses on adjacent lands.

As stated above there is an existing logging road to serve the logging operations that may occur on the subject property. Power, telephone, natural gas and water are also available to serve the needs of existing or future forest operations.

(B) A temporary portable facility for the primary processing of forest products;

Placing a temporary portable facility on this existing foundation will not destabilize the land use patterns in the vicinity, as the lands adjacent are predominately zone CFU-2 and used in a manner consistent with the CFU-2 plan policy.

There is no apparent conflict with the adjacent properties, which are zoned predominately CFU-2, by placing a temporary portable facility on the subject site property for the intent of processing forest products.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(C) Farm use, as defined by ORS 215.203;

Farming does occur on a parcel, approximately 350' away to the south of the subject property and is separated by Skyline Boulevard. Using the subject property for farming would not destabilize the land use in the vicinity. However, it was previously determined in Multnomah County Case File No. CU 9-95, that based on the configuration, steepness and limited and disjointed location of agriculturally rated soils make the reasonable use of this land for agriculture difficult.

The land use pattern along Skyline Boulevard is a diverse mix of parcel sizes and uses. Farm use on this property would not conflict with existing or planned uses on adjacent lands as there is a farm in operation on a parcel approximately 350' away from the subject property. However, as previously stated, due to the configuration, steepness and limited agriculturally rated soils, agricultural use on this property would be difficult.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(D) Alteration, maintenance, or expansion of an existing lawfully established habitable dwelling is subject to the following:

The dimensional standards of MCC 33.2260 are satisfied; and

The development standards of MCC 33.2305(A)(5) are satisfied if the expansion exceeds 400 square feet of ground coverage.

This allowed use is not applicable in this proposal, as there is not an existing habitable dwelling on the subject site.

(E) Replacement of an existing lawfully established habitable dwelling on the same lot, subject to the following;

The replacement dwelling will be located within 200 feet of the existing dwelling; and

The existing dwelling is removed, demolished or converted to an allowable non-residential use within three months of the completion of the replacement dwelling; and

The replacement dwelling shall satisfy the dimension standards of MCC 33.2260 and the development standards of MCC 33.2305.

This allowed use is not applicable in this proposal, as there will not be a replacement of an existing lawfully established habitable dwelling.

(F) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources, including a public or private wildlife and fisheries conservation area.

There is no apparent evidence that the allowed use of soil air and water quality will destabilize the land use pattern in the vicinity.

The subject property is designated as containing significant wildlife habitat (SEC-h). By changing the zoning to CFU-2, this allowed use would not destabilize the surrounding properties, but would enhance it by the preservation and maintenance of the current woodlot. These practices will provide for an increased wildlife conservation area.

This use does not conflict with the land use pattern in the vicinity as the surrounding lands are predominately forested with reforestation having occurred.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(G) An uninhabitable structure accessory to fish and wildlife habitat;

This allowed use will not destabilize the land use pattern in the vicinity as the surrounding parcels are predominately forested woodlots with reforestation in process. This application of land use enhances the fish and wildlife habitat. At this time, there is no intent to place an uninhabitable structure accessory to fish and wildlife habitat on this property.

Adjacent lands are predominately zone CFU-2 and used in a manner consistent with that zone classification, there is no evidence that this allowed use will conflict with planned or existing uses on adjacent lands.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(H) A caretaker residence for a public park or a fish hatchery;

This allowed use is not being considered in this proposal as there is not an existing public park or fish hatchery on this property, nor is there the intent or resource to establish these uses.

(I) Local distribution lines (e.g., electric, telephone, natural gas, etc.) and accessory equipment (e.g. electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals) or equipment which provides service hookups, including water service hookups;

This allowed use will not destabilize or conflict with current land practices.

(J) Climbing and passing lanes within the right-of-way existing as of July 1, 1987.

This allowed use is not being considered in this proposal, as there are not climbing and passing lanes on the subject property, nor is the subject property within the existing right of way.

(K) Reconstruction or modification of public roads and highways, not including the addition of vehicular travel lanes, where not removal or displacement of building will occur, or no new land parcels result;

This allowed use is not being considered in this proposal, as there is not a public road or highway on the subject property.

(L) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as not longer needed;

This allowed use is not being considered in this proposal, as there is not a temporary public road nor highway detour on the subject property.

(M) Miner betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas, within a right-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

This allowed use is not being considered in this proposal, as there is not an existing public road and highway related facility on the subject property.

(N) A lookout tower for forest fire protection;

There is no apparent evidence that a lookout tower for forest fire protection would destabilize the land use pattern in the vicinity, as the adjacent properties are predominately forest land and would benefit from forest fire protection. There is no intent to place a lookout tower on the subject property; however, if this became necessary to preserve the current woodlot of the subject property and the adjacent properties, the owner would comply with the conditions set by the County.

Existing and planned land uses on the adjacent properties is predominately forest land and would benefit from forest fire protection in the event that a need should arise to install a lookout tower.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(O) A Water Intake facility, canal and distribution lines for farm irrigation and ponds;

A water intake facility, canal and distribution lines for farm irrigation and ponds will not destabilize the land use pattern in the vicinity as there is an active farm operation across Skyline Boulevard that could benefit from this allowed use. However, this is not being considered as the subject property and the adjacent properties are not being used in a manner consistent with this allowed use.

There is not an evident conflict with existing or planned uses on adjacent lands as the surrounding lands are predominately CFU-2, which does allow for farm practices; however, the adjacent properties and subject property are not active farm operations.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(P) A temporary forest labor camp;

A temporary forest labor camp would not destabilize the land use pattern in the vicinity as it would be supporting a forest practice, which is consistent with the land uses on the adjacent properties. However, due to the size of the subject property, just under 10

acres, it would not support such an operation and there is no intent to establish this type of forest operation.

There is not an evident conflict with existing or planned uses on adjacent lands as the surrounding lands are predominately forest land zoned CFU-2 and could have active forest operations. A temporary forest labor camp on the subject property would be consistent with the current land use patterns in the area.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(Q) Exploration for mineral and aggregate resources as defined in ORS 517;

This allowed use is not being considered in this proposal, as there are no known mineral or aggregate resources on the subject property.

(R) Exploration for geothermal resources;

This allowed use is not being considered in the proposal, as there are no known geothermal resources on the subject property.

(S) A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings necessary for its operation.

This allowed use is not being considered in this proposal, as the subject site has not been ordered a solid waste disposal by the Environmental Quality Commission.

(T) Type A home occupations pursuant to the definition and restrictions of MCC 33.0005 (H) (6) (a) and 33.2245. Home occupations as defined by MCC 33.0005 (H) (6) (a) do not allow the level of activity defined in ORS 215.448;

This allowed use will not destabilize the land use pattern in the vicinity as the owners shall comply with the definitions and restrictions set forth in MCC 33.0005 (H) (6) (a) and MCC 33.2245 if a Type A home occupation is considered.

This allowed use will not conflict with the existing or planned uses on adjacent lands as the owners shall comply with the definitions and restrictions set forth in MCC 33.0005 (H) (6) (a) and MCC 33.2245 if a Type A home occupation is considered.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(U) Other structures or uses determined by the Planning Director to be customarily accessory or incidental to any use permitted or approved in this district.

n/a

(V) Actions taken in response to an emergency/disaster event as defined in MCC 33.0005 pursuant to the provisions of MCC 33.0535;

n/a

- 4. Proof that circumstances in the area affected by the proposed revision have changed since adoption of the plan, or that there was a mistake in the plan, are additional relevant factors which may be considered under this subsection.**

Based on the Soil Survey of Multnomah County, 95 percent of this parcel is mapped as class VI and VII soils. The three soils types located on the subject property are; Cascade silt loam (7C), Cascade silt loam (7D), and Goble silt loam (17E). Only Cascade silt loam (7C) is considered high value farmland soil. This soil type is found in less than 4 percent of the total land area of this property. Approximately 15 percent of the property is mapped Cascade silt loam (7D) and is not designated as high value farmland. This soil type resides in a narrow strip that wraps around the entire southern and western boundaries in a strip that does not exceed 200 feet in width. 86 percent of the parcel is mapped as Goble silt loam (17E). This is a type VI soil and is not considered suitable for farming. See attachment 1.

The subject property is approximately 10 acres, a parcel of this size would be considered relatively small for a farm according to the 1987 Census of Agricultural statistics. The amount of land that is level enough for cultivated crops is no more that one acre. Even the area mapped as 7D with 15 to 30 percent slopes is too steep for cultivated crops. Nearly 90 percent of the parcel is too steep and the slopes to fragile to consider it suitable for livestock. Steep topography throughout most of the site diminishes the possibility of productive farming.

Based on the configuration, steepness and limited agriculturally rated soils, agricultural use on this property would be difficult at best, it is our position that this site is inappropriately zoned as EFU. The current use of the subject property is small woodlot management, the land use pattern of the adjacent land is also forest management. Changing the zone from EFU to CFU-2 would be more consistent with the manner in which the land is used.

- (B) Quasi-Judicial Zone Change. The burden of proof is upon the person initiating a zone change request. The burden shall be to persuade that:**

- 1. Granting the request is in the public interest:**

The Planning Commission establishes land zoning classification guidelines to preserve valuable land from inappropriate and incompatible use. It is the public's interest to maintain valuable agricultural and forestlands from inappropriate use. The public interest is best served when land is zoned correctly and used in the correct manner consistent with the guidelines of that zone.

- 2. There is a public need for the requested change and that need will be best served by changing the classification of the property in question as compared with other available property;**

The subject property is one of the only parcels in the area zoned as EFU and is nearly surrounded by forest lands zoned CFU-2. The Planning Commission's intent is to ensure that the land in their district is properly zoned, this serves public's interest by ensuring valuable land resources are not inappropriately used. The public need is best served by changing the zoning on the subject property to a classification of CFU-2, which is more consistent with the type of land use pattern on this property and the surrounding properties.

- 3. The proposed action fully accords with the applicable elements of the Comprehensive Plan;**

Comprehensive Plan Policies No. 9 and 11 applies to this request for a plan amendment.

The elements of Plan Policy No. 9 are:

Predominately agricultural soil capability I, II, III and IV, as defined by U.S. Soil Conservation Service:

95 percent of this parcel is mapped as class VI and VII soils. The three soils types located on the subject property are; Cascade silt loam (7C), Cascade silt loam (7D), and Goble silt loam (17E). Only Cascade silt loam (7C) is considered high value farmland soil. This soil type is found in less than 4 percent of the total land area of this property. Approximately 15 percent of the property is mapped Cascade silt loam (7D) and is not designated as high value farmland. This soil type resides in a narrow strip that wraps around the entire southern and western boundaries in a strip that does not exceed 200 feet in width. 86 percent of the parcel is mapped as Goble silt loam (17E). This is a type VI soil and is not considered suitable for farming. See attachment 1.

Of parcel sizes suitable for commercial agriculture;

The parcel is approximately 10 acres, a parcel of this size would be considered relatively small for a farm operation, according to the 1987 Census of Agricultural statistics. The amount of land that is level enough for cultivated crops is no more than one acre. Even the area mapped as 7D with 15 to 30 percent slopes is too steep for cultivated crops. Nearly 90 percent of the parcel is too steep and the slopes too fragile to consider it suitable for livestock. Steep topography throughout most of the site diminishes the possibility of productive farming. Nearby farm operations are 15 - 40 acres that have slopes that are less than 15 percent.

In predominately commercial agricultural use;

The surrounding land is forestland and predominately zone CFU-2. See attachment 2. The nearest farm operation is approximately 350' away to the south and is a 13.25-acre parcel that is separated by Skyline Boulevard.

Not impacted by urban service;

This parcel is not located in an urban area and will not be impacted by urban service.

Other areas, predominately surrounded by commercial agricultural lands which are necessary to permit farm practices to be undertaken on these adjacent lands;

Activities associated with the proposed property should not significantly affect farm operations on adjacent properties. No farm activities occur to the north, east or west of the property. The subject site is approximately 350' away from the nearest farming operation. This farm area is a 13.25-acre parcel to the south and is separated by Skyline Boulevard. This farm operation does not require access onto or through the subject property.

The elements of Policy No. 11 are:

Predominately in Forest Cubic Foot Site Class I, II and III for Douglas Fir as classified by the U.S. Soil Conservation Service;

The surrounding land is predominately zoned CFU-2 and the soil conditions on this property are suitable for the growth of Douglas Fir.

Suitable for commercial forest use and small woodlot management;

Due to the soil conditions the site is currently being managed as a small woodlot. The property was recently reforested with 2850 Douglas Fir trees.

Potential reforestation areas, but not, at the present, used for commercial forestry;

Timber on this property was harvested about 10 years ago and reforestation of 2850 Douglas Fir trees occurred at that time.

Not impacted by urban services;

The property is not located in an urban area and will not be impacted by urban services.

Cohesive forest areas with large parcels;

Parcels to the north, east and west are large parcels that are commercial forestlands zoned CFU-2.

Other areas which are:

**Necessary for watershed protection or are subject to landslides, erosion or slumping;
or**

Wildlife and fish habitat areas, potential recreation areas, or are of scenic significance.

Most of the subject site is subject to severe slopes. The entire parcel is identified as a hazard area on the Multnomah County Slope Hazard Map. Landslides, erosion or slumping are possible due to the topography of the parcel.

The subject property is designated as containing significant wildlife habitat (SEC-h). Maintaining the current woodlot and through continued reforestation, will enhance the wildlife habitat and will increase the scenic significance.

Although both plans have been determined as applicable to this proposal, based on the configuration, size, steepness, limited agriculturally rated soils and the current land use, it is apparent that the elements of Plan Policy No. 11 are more applicable to this property.

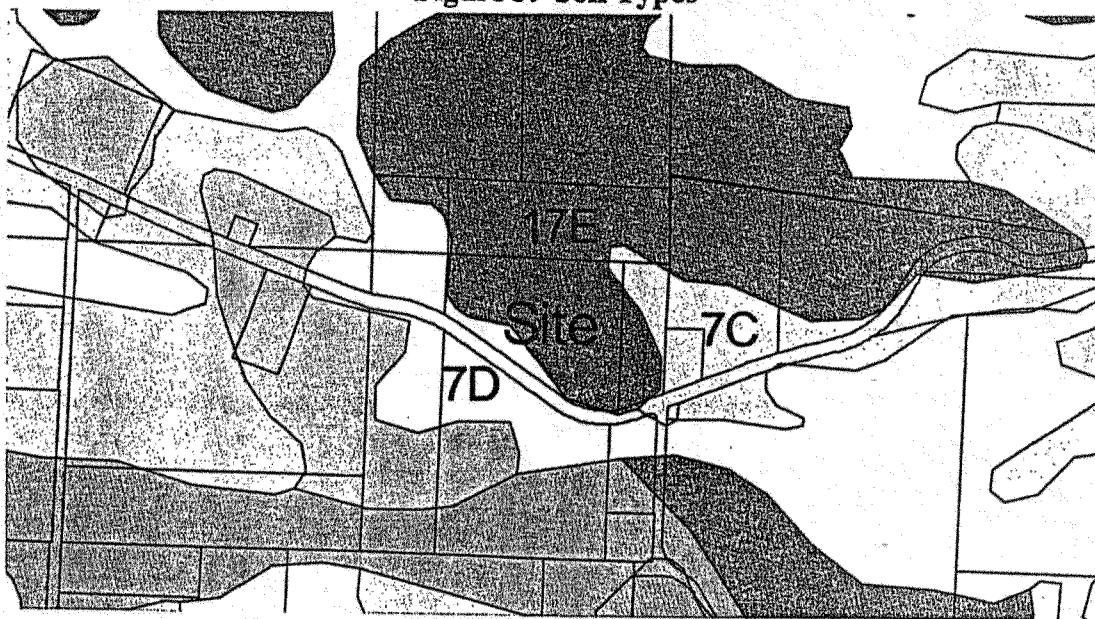
4. Proof of change in a neighborhood or community or mistake in the planning or zoning for the property under consideration are additional relevant factors to be considered under this subsection.

It is our position that the zoning classification of EFU for this site is a mistake. The attached aerial photo and the simple photos of the property taken by Phil Werner clearly show that this property is not intended for agricultural use. See attachment 3a – 3d.

All studies done on the property have proved that the soil conditions, slope and current use of the site is not consistent with the guidelines of the zone classification EFU. Therefore, approval of a zone change to CFU-2 is requested.

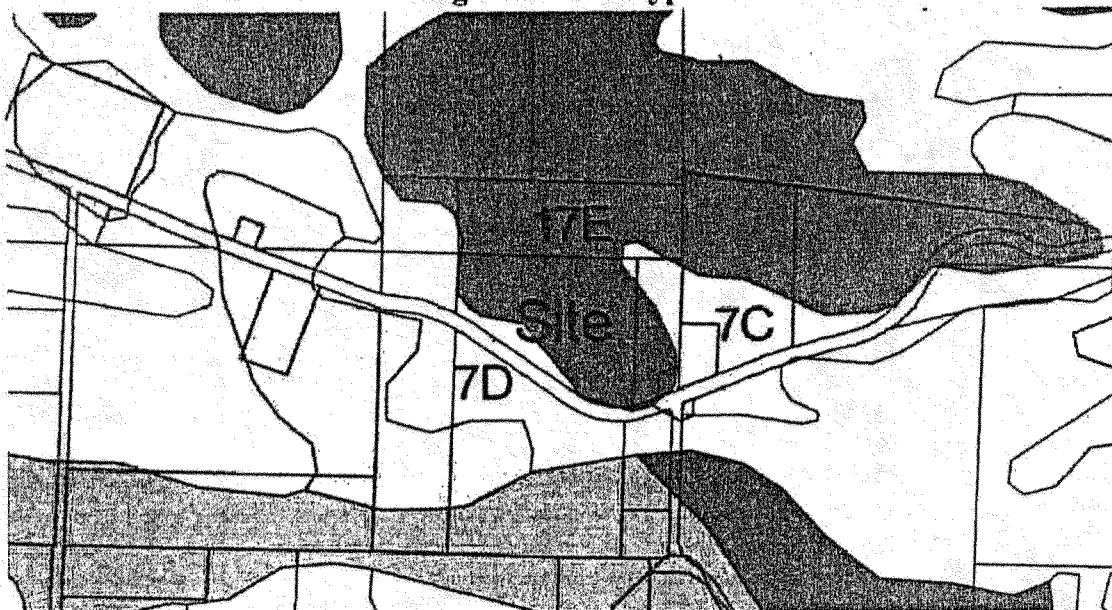
- *Memorandum - continued*
 - *Page 5*
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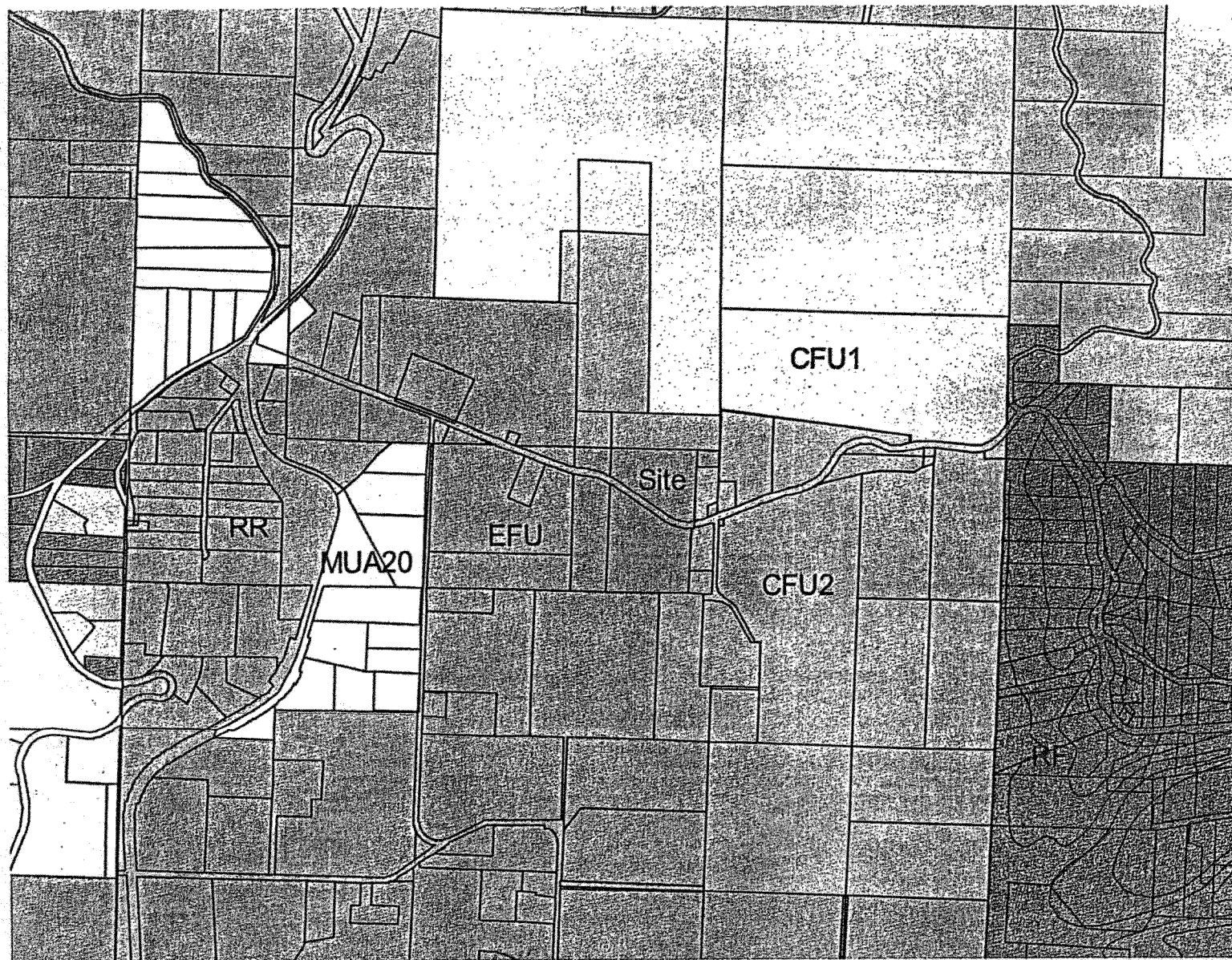
Figure 3: Soil Types

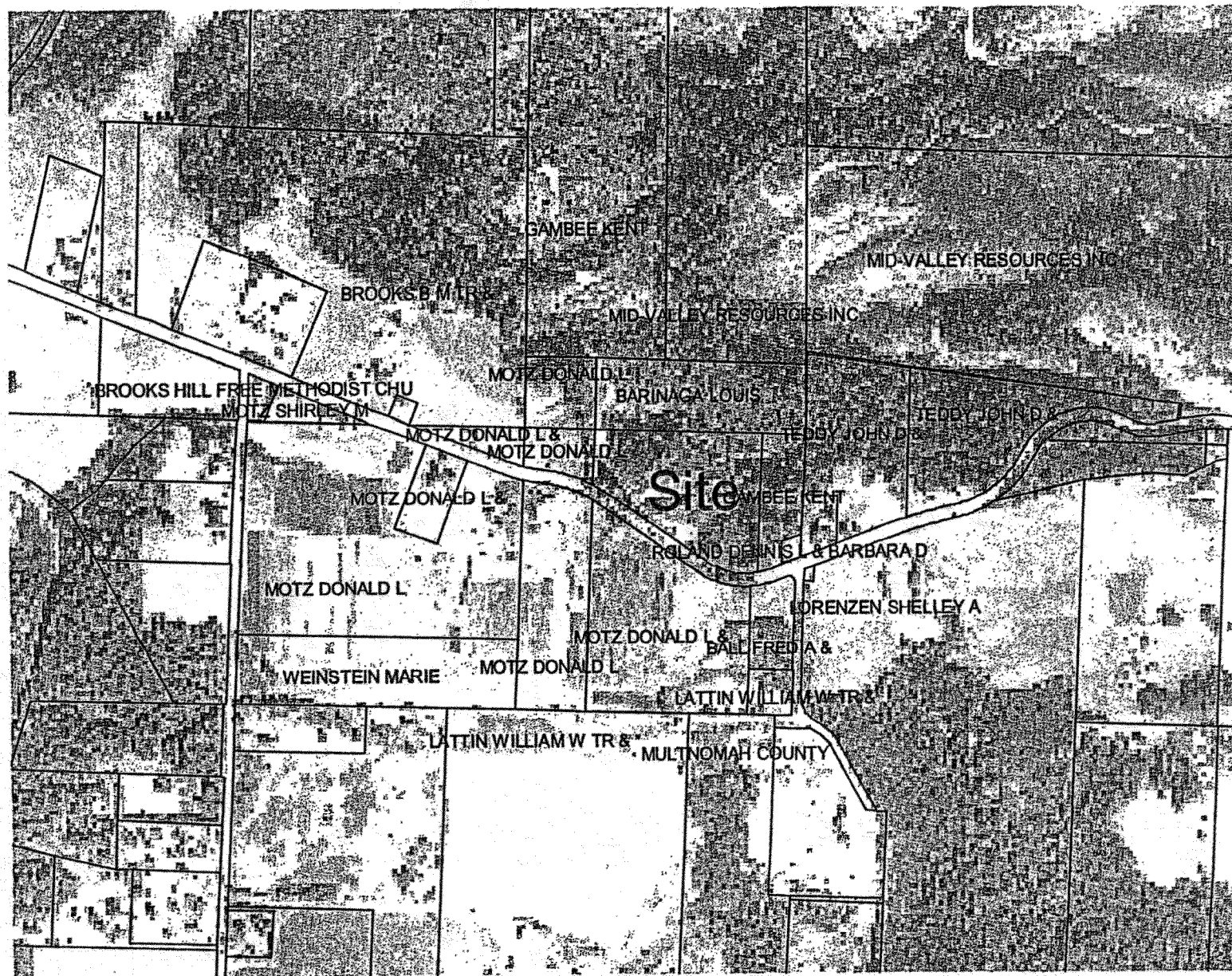


- *Memorandum - continued*
 - *Page 5*
-

Figure 3: Soil Types







BROOKS HILL FREE METHODIST CHU
MOTZ SHIRLEY M

BROOKS B M TR

GAMBEE KENT

MID-VALLEY RESOURCES INC

MID-VALLEY RESOURCES INC

MOTZ DONALD L

BARINAGA LOUIS

TEDDY JOHN D

MOTZ DONALD L &
MOTZ DONALD

TEDDY JOHN D

MOTZ DONALD L &

Site

GAMBEE KENT

ROLAND DENNIS L & BARBARA D

MOTZ DONALD L

LORENZEN SHELLEY A

WEINSTEIN MARIE

MOTZ DONALD L

BALL FRED A &

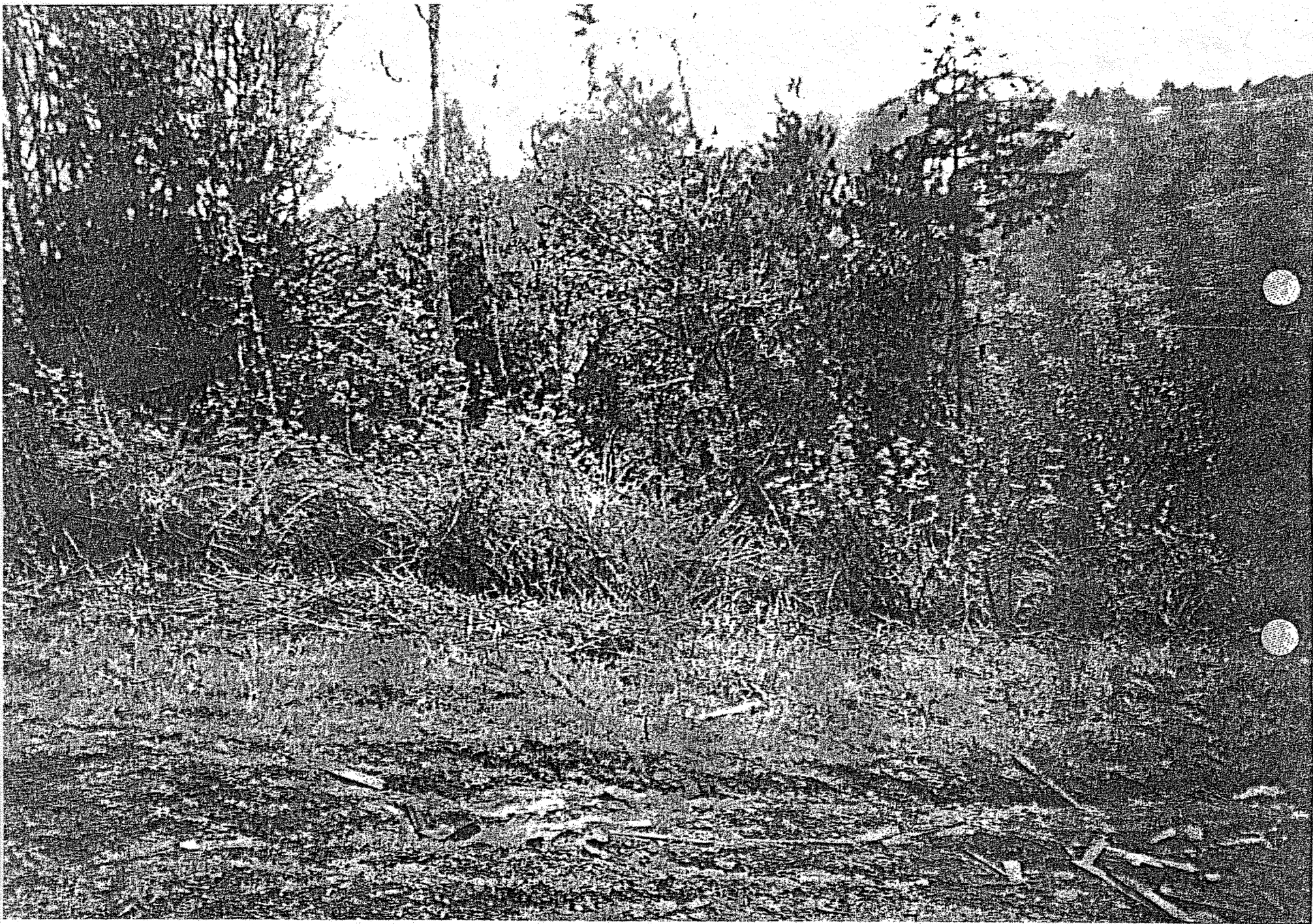
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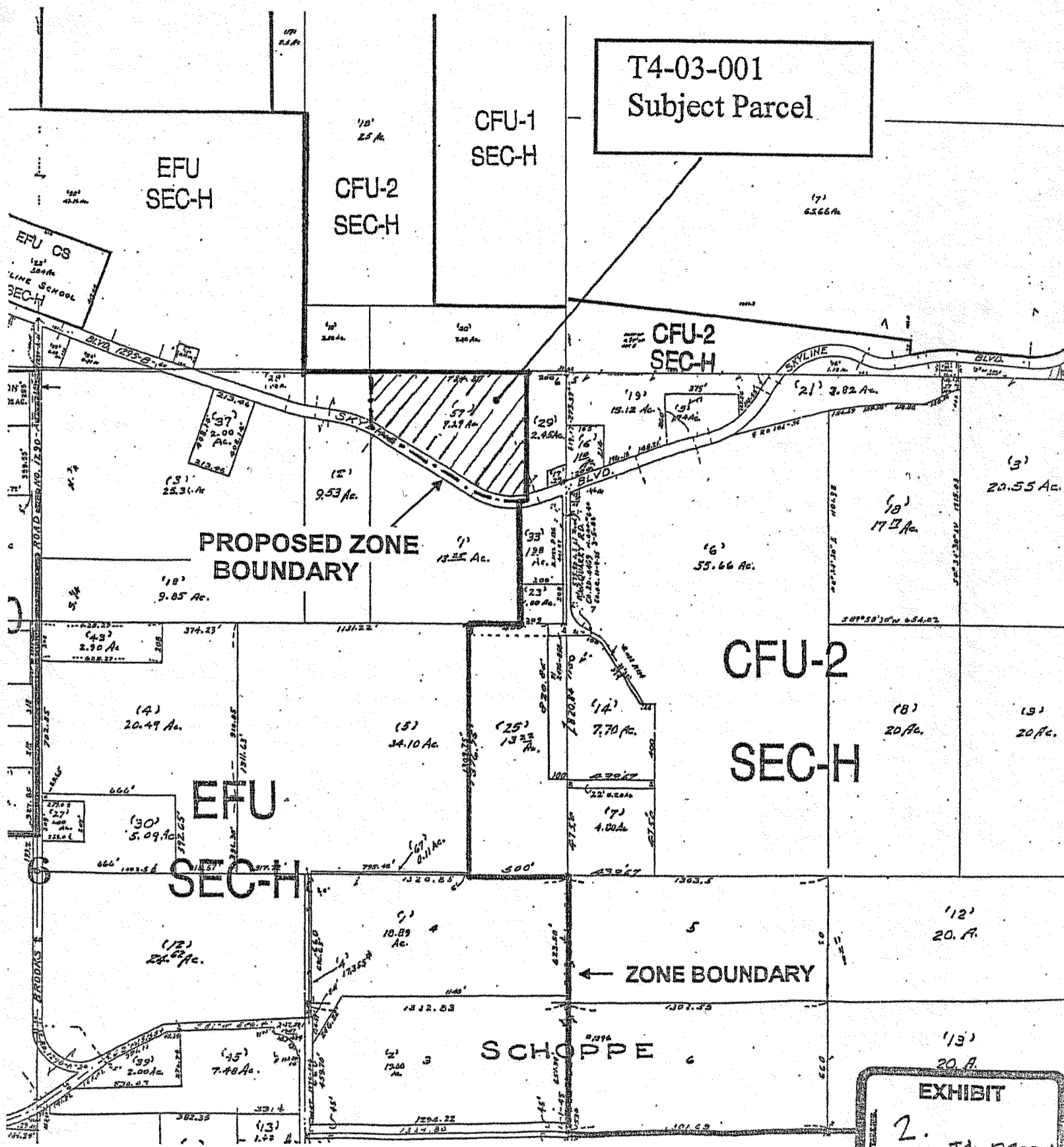
MULTNOMAH COUNTY

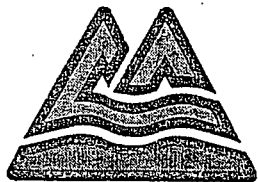












MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES
TRANSPORTATION & LAND USE PLANNING DIVISION
2115 S.E. MORRISON STREET
PORTLAND, OREGON 97214
(503) 248-3043

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

Multnomah County Hearings Officer Decision

Attached please find a copy of the Hearings Officer's decision in the matter of CU 9-95. A copy of the Hearings Officer's decision is being mailed to those persons entitled to be mailed notice under MCC 11.15.8220(C) and to other persons who have requested the same.

The Hearings Officer Decision may be appealed to the Board of County Commissioners (Board) by any person or organization who appears and testifies at the hearing, or by those who submit written testimony into the record. An appeal must be filed with the County Planning Division within ten days after the Hearings Officer decision is submitted to the Clerk of the Board. An appeal requires a completed *Notice of Review* form and a fee of \$500.00 plus a \$3.50-per-minute charge for a transcript of the initial hearing(s). [ref. MCC 11.15.8260(A)(1) and MCC 11.15.9020(B)]. Instructions and forms are available at the County Planning and Development Office at 2115 SE Morrison Street, Portland, Oregon.

Failure to raise an issue by the close of the record at or following the final hearing, (in person or by letter), precludes appeal to the Land Use Board of Appeals (LUBA) on that issue. Failure to provide specificity on an issue sufficient for the Board to respond, precludes appeal to LUBA on that issue.

To appeal the Hearings Officer decision, a *Notice of Review* form and fee must be submitted to the County Planning Director. For further information call the Multnomah County Planning and Development Division at 248-3043

Signed by the Hearings Officer:

Decision Mailed to Parties:

Decision Submitted to Board Clerk:

Last day to Appeal Decision:

Reported to Board of County Commissioners:

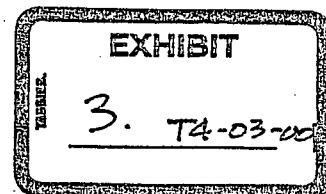
April 22, 1996

April 29 1996

April 25, 1996

May 8, 1996

May 9, 1996



BEFORE THE HEARINGS OFFICER
FOR MULTNOMAH COUNTY, OREGON

RECEIVED

APR 23 1996

Multnomah County
Zoning Division

Regarding an application by Paul J. and Bonnie A.)
Gill regarding conditional use approval for a non-)
farm related single family residence in the Exclusive)
Farm Use (EFU and SEC-h Wildlife Habitat) zones)
located at 11410 N.W. Skyline Boulevard in)
unincorporated Multnomah County, Oregon.)

FINAL ORDER
CU 9-95
(Gill)

I. HEARING AND RECORD

A public hearing was held concerning this matter on March 20, 1996. The hearing and written record were closed on the same date.

The following exhibits were received and made part of the record by the Hearings Officer:

1. Application
2. Application Packet
3. Completeness Letter
4. Correspondence from Michael Robinson RE: Lot of Record status
5. Vicinity Ownerships
6. Lot of Record documentation
- 7a-b. Air photo of property
8. Deed to Gills
9. Contract creating parcel
10. Property agreements (spring)
11. 50' access Easement granted to Kent Gambee
12. Letter from applicant's attorney requesting rescheduling hearing and waiving 120-day provision of ORS
13. Letter from M. Robinson
14. Letter from Paul & Bonnie Gill requesting rescheduling and waiving 120-day provision of ORS
15. Revised Site Plan
16. Geotechnical Evaluation (HDP Form-1)
17. Site Plan w/Topo: Geotech "Exhibit A"
18. Revised Site Plan w/air photo
19. Staff Report

II. FINDINGS

The Hearings Officer adopts and incorporates by reference the findings and conclusions contained within the Staff Report dated March 20, 1996 (attached), except to the extent expressly modified or supplemented below.

III. DISCUSSION

A. Applicability of SEC Overlay

A question was raised at the hearing concerning whether or not provisions of the SEC overlay apply to this application. The evidence indicates that Ordinance 832, which adopted the SEC Overlay and applied it to this site was enacted on September 7, 1995 and became effective 30 days thereafter on October 7, 1995. The evidence further indicates that this application was received on October 20, 1995. Therefore, since the application was received after the effective date of Ordinance 832, the SEC overlay applies to this application.

B. Effect of Proposed Development on the Cost of Accepted Farm or Forest Practices on Surrounding Lands

The evidence indicates that the logging road which currently provides access to the primary building site is a private easement. This easement provides access to other interior parcels that are used for forest practices. Also, the evidence indicates that the proposed primary building site has historically been used as a log staging area. Based on the evidence and testimony in the record, the Hearings Officer finds that even if a residence is built on what had been a log staging area at the location of the proposed primary site, other log staging areas exist off-site, within the other interior parcels. Apparently, the staging area located on-site was used to gather and store logs harvested from this property only. Therefore, the loss of this staging area would not increase the cost of accepted forest practices on surrounding lands, because the surrounding forest lands have their own staging areas. As long as the easement is not blocked, so that log trucks and other forest related vehicles can continue to use it, the cost of accepted forest practices on surrounding lands will not be compromised by the construction of this proposed residence.

C. Secondary Building Location

The applicant has identified a secondary building site in their proposed site plan. The Hearings Officer finds that appropriate geotechnical and other analysis has not been performed for this secondary building site and that the site is therefore not approvable based upon the evidence in the record. The conditions of approval have been amended to eliminate any reference to the secondary building site.

D. Fire Protection

The evidence indicates that the Tualatin Valley Fire and Rescue District has had an opportunity to review and comment on the proposal. The District has noted that fire fighting water supply and access to the proposed structure will be provided as required by TVFRD Ordinance 92-01. Furthermore, plans showing hydrants and access complying with Ordinance 92-01 will be required to be submitted to TVFRD for review and approval prior to construction. These requirements have been added as conditions of approval to this land use decision.

The Hearings Officer notes that as shown in the proposed site plan, the logging road easement does not contain an area where fire trucks can turn around. The Exclusive Farm Use zone does not contain development regulations for private roads as is the case in MCC .2074(D) which provides detailed regulations for private roads within the Commercial Forest Use (CFU) zone. The CFU standards for private roads require turnarounds with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length. If this property were located in the CFU zone, the applicant would be required to demonstrate that it is possible to construct a turnaround with a radius of 48 feet at points where the access exceeds 150 feet in length.

However, since this property is zoned EFU, not CFU, the same turnaround regulations do not apply. Instead, access and fire protection standards contained within the EFU are more permissive. The Hearings Officer finds that it is not appropriate to add additional conditions of approval concerning the construction of specific turnarounds. Nonetheless, the Hearings Officer will direct Tualatin Valley Fire and Rescue District to pay particular attention to the needs of their fire, life and safety apparatus so that they are able to safely turn around on site.

IV. CONCLUSION

Based upon the above findings, the Hearings Officer concludes that CU 9-95 should be approved because it does or can meet the applicable approval criteria, subject to the conditions of approval set forth below.

V. DECISION

CU 9-95 is hereby approved subject to the following conditions:

1. Approval of this Conditional Use shall expire two years from the date of the Board Order unless substantial construction has taken place in accordance with MCC 11.15.7110 (C).
2. The dwelling shall be sited in the "primary" location indicated on the attached site plan and shall be located so that it does not conflict with or encroach upon the 50 foot access easement located on the property.
3. Prior to approval of any other residential-related permits, the owner shall disqualify the subject property from farm use taxation and meet all of the conditions set forth in this criterion by paying any additional taxes and penalties as determined by Multnomah County.
4. Prior to the issuance of a building permit for a dwelling, the property owner shall provide to the Division of Planning and Development a copy of the recorded restrictions acknowledging the rights of nearby properties to conduct farm and forest practices. A prepared form is available at the Planning Offices.
5. Prior to obtaining a building permit for a dwelling, the property owner shall demonstrate that the project meets the standards for fire protection as determined by the Tualatin Valley Fire and Rescue District. TVFRD should pay particular attention to a site plan which does not indicate a turnaround for fire and rescue vehicles. The County's land use approval criteria do not require a turnaround in this case. If the District's regulations require such a turnaround, appropriate geotechnical analysis should be performed prior to approving any proposed turnaround, given the extreme slopes located on-site.
6. Prior to the issuance of a building permit for a dwelling, submit a copy of the well report. At that time, persons entitled to notice will again be notified that the water service part of the approval criteria is being reviewed and there is the opportunity for, comment and appeal of this finding.
7. Prior to issuance of a building permit for a dwelling, apply for and demonstrate compliance with the Hillside Development and Erosion Control ordinance, MCC 11.15.6700-.6735. This permit must include a detailed site plan depicting the location of the proposed dwelling, septic system, existing and proposed driveway(s), access easement, and existing and proposed topography.
8. Prior to issuance of a building permit for a dwelling, apply for and demonstrate compliance with the Significant Environmental Concern ordinance, MCC 11.15.6400-.6428.

9. Any dwelling on this site shall comply with Uniform Building Code, be attached to a foundation for which a building permit has been obtained, and have a minimum floor area of 600 square feet.

It is so ordered this 22nd day of April, 1996.



Phillip E. Grillo
Hearings Officer
Multnomah County



DEPARTMENT OF ENVIRONMENTAL SERVICES
TRANSPORTATION AND LAND USE DIVISION
2115 S.E. MORRISON STREET
PORTLAND, OREGON 97214 (503) 248-3043

STAFF REPORT

This Staff Report consists of Conditions, Findings of Fact, and Conclusions.
Prepared for a Public Hearing to be held on March 20, 1996.

Case File: CU 9-95

Scheduled Before: Phillip Grillo, Multnomah County Hearings Officer

Hearing Date, Time, & Place: March 20, 1996; at 9:00 a.m.
2115 SE Morrison Street, Room 111
Portland, Oregon 97214

Proposed Action(s) and Use(s): Applicant requests Conditional Use approval for a non-farm related single family residence.

Location of the Proposal: 11410 NW Skyline Boulevard

Legal Description of Property: Tax lot '59', Section 6, T1N, R1W;

Site Size: 9.29 acres

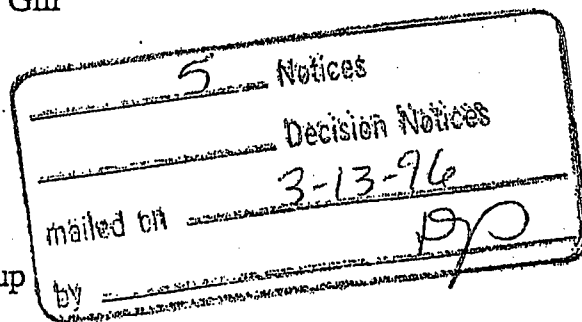
Plan Designation: Exclusive Farm Use; Significant Goal 5 Resource Area

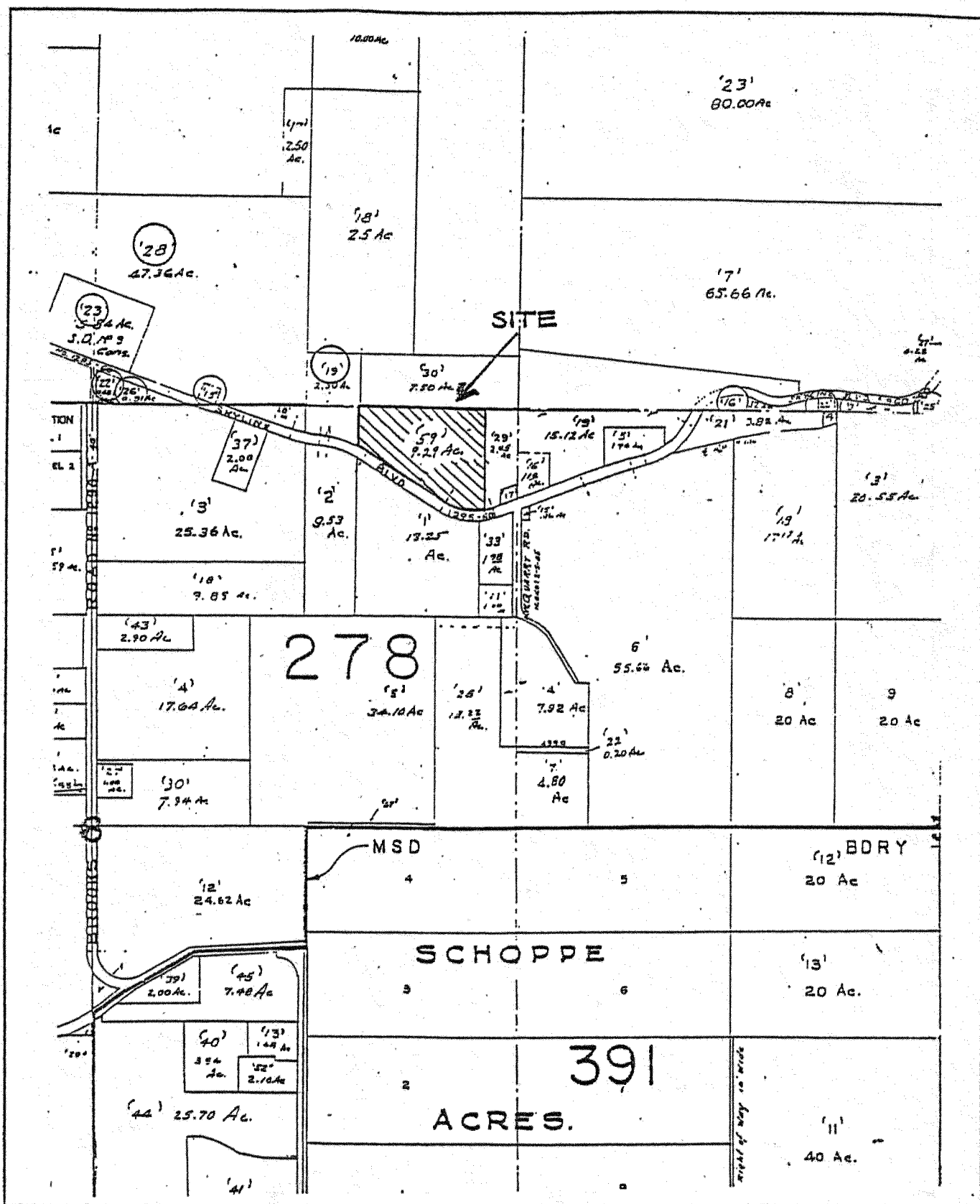
Zoning Designation: Exclusive Farm Use (EFU); SEC-h (wildlife habitat)

Applicant: Paul J. and Bonnie A. Gill
7036 N Wall Avenue
Portland, OR 97203

Property Owner: Same

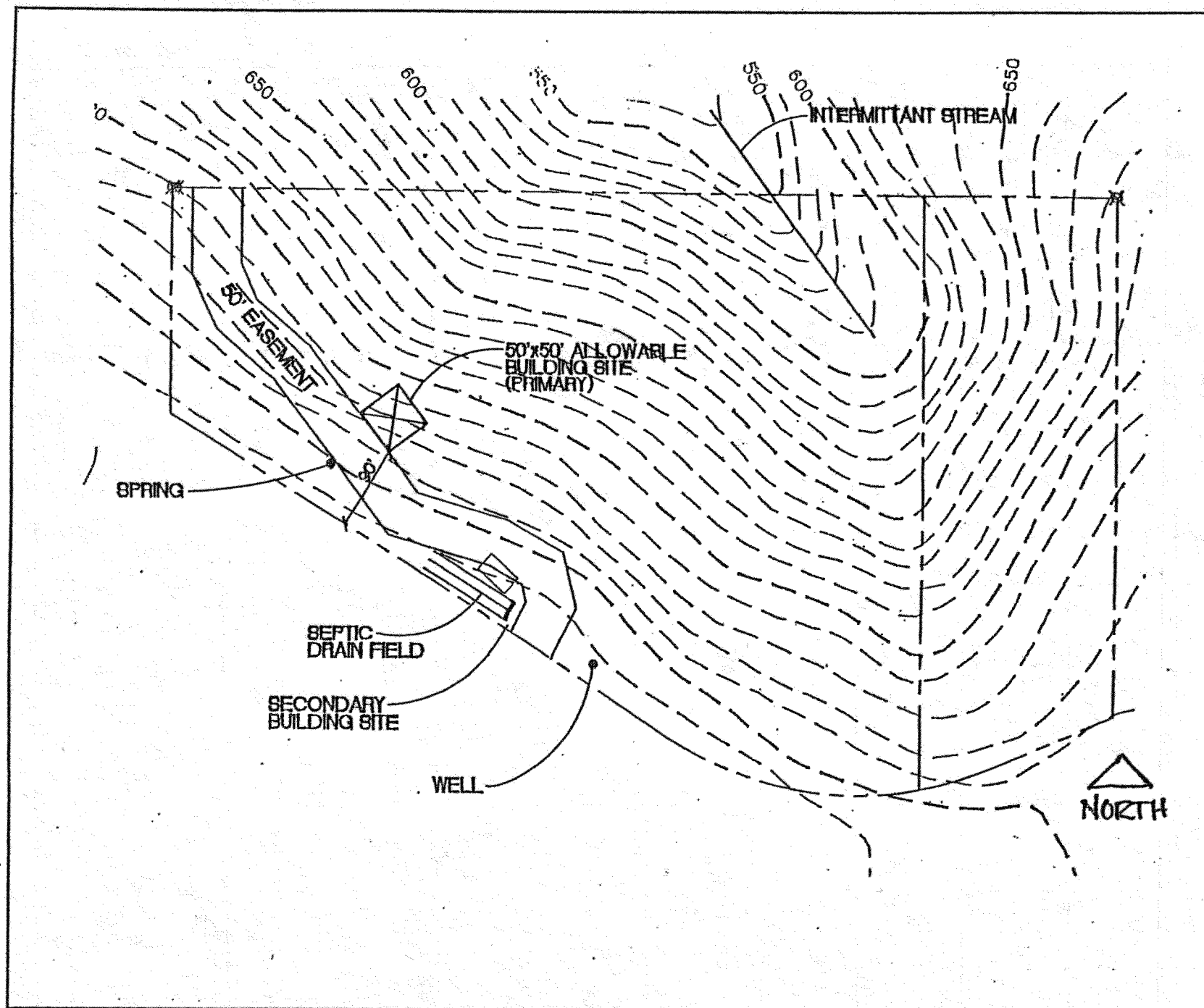
Representative: Dave Kimmel
Planning/Design Group
122 SE 27th
Portland, OR 97214





Vicinity Map
CU 9-95

Site Plan
CU 9-95



Recommended Hearings Officer Decision:

Conditional Use (CU 9-95):

Approve, subject to conditions, development of this property with a single family dwelling not related to farm use, based on the following Findings and Conclusions.

CONDITIONS OF APPROVAL:

1. Approval of this Conditional Use shall expire two years from the date of the Board Order unless substantial construction has taken place in accordance with MCC 11.15.7110 (C).
2. The dwelling shall be sited: 1) in the "primary" location indicated on the attached site plan; or 2) in the "secondary" location indicated on the site plan if the dwelling can be sited so that it does not conflict with or encroach upon the 50 foot access easement located on the property.
3. Prior to approval of any other residential-related permits, the owner shall disqualify the subject property from farm use taxation and meet all of the conditions set forth in this criterion by paying any additional taxes and penalties as determined by Multnomah County.
4. Prior to the issuance of a building permit for a dwelling, the property owner shall provide to the Division of Planning and Development a copy of the recorded restrictions acknowledging the rights of nearby properties to conduct farm and forest practices. A prepared form is available at the Planning Offices.
5. Prior to obtaining a building permit for a dwelling, the property owner shall demonstrate that the project meets the standards for fire protection as determined by the Tualatin Valley Fire and Rescue District.
6. Prior to the issuance of a building permit for a dwelling, submit a copy of the well report. At that time, persons entitled to notice will again be notified that the water service part of the approval criteria is being reviewed and there is the opportunity for comment and appeal of this finding.
7. Prior to issuance of a building permit for a dwelling, apply for and demonstrate compliance with the Hillside Development and Erosion Control ordinance, MCC 11.15.6700-.6735. This permit must include a detailed site plan depicting the location of the proposed dwelling, septic system, existing and proposed driveway(s), access easement, and existing and proposed topography.
8. Prior to issuance of a building permit for a dwelling, apply for and demonstrate compliance with the Significant Environmental Concern ordinance, MCC 11.15.6400-.6428.
9. Any dwelling on this site shall comply with Uniform Building Code, be attached to a foundation for which a building permit has been obtained, and have a minimum floor area of 600 square feet.

Staff Report Format

This staff report addresses one requested action: a request for conditional use approval for a non farm dwelling in an EFU zone. The Findings of Fact and Conclusions for the conditional use request begin immediately below. Approval of this action will be based on a demonstration that the proposal meets all applicable Multnomah County Ordinance and Comprehensive Plan approval criteria (sections IV and V below) as well as the Oregon Administrative Rule for Agricultural Lands (section III). The applicant's responses to the approval criteria follow each criterion. Staff Comments follow the applicant's response.

Findings of Fact

NOTE: Much of the application material relied upon as evidence for developing this Staff Report was submitted by Western International Forest Products, Inc., who were acting on behalf of property owners Paul and Bonnie Gill. On January 24, 1996 Multnomah County received a letter from the Gills requesting the County to consider them as applicant, rather than Western International Forest Products.

I. PROPOSAL:

Applicant's Response: Western International Forest Products, Inc. ("Applicant") is the previous owner of the property that is the subject of this request and, on behalf of the current owners, is applying for land use approval to construct a single-family residence on the property. In 1990, Multnomah County ("County") approved a conditional use permit application that proposed the construction of a single-family residence. That permit has now lapsed. The property is located on the north side of Skyline Boulevard near Cornelius Pass in Multnomah County. It is designated Exclusive Farm Use ("EFU") in the County Comprehensive Plan and is located in an EFU zone. Surrounding land uses are as follows: West: single-family home (tax lot 2); East: vacant agricultural land (tax lot 29); North: vacant agricultural land (tax lot 30); South: single-family home (tax lot 1). The current owners intend to build a single-family residence because this parcel is not suitable for commercial farm or forestry use due to adverse soils and terrain, small lot size, and poor lot configuration. This parcel is located among several other small agricultural tax-deferred parcels and is unlikely to be joined with other parcels to create a farmable unit.

Staff Comment: The applicant requests Hearings Officer approval to develop the above described 9.59 acre lot with a single family dwelling. A tentative site plan has been submitted by the applicant. This site plan indicates two potential locations for development of a single family dwelling: 1) a "primary" site located on the western portion of the site on a former log landing area adjacent to a 50 foot wide access easement; and 2) a "secondary" site in close proximity to Skyline Boulevard in the southern portion of the site. As depicted on the site plan, the secondary site encroaches somewhat into the access easement, and therefore may require adjustment to the site or easement in order to be a viable location.

II. SITE AND VICINITY CHARACTERISTICS:

The subject parcel is located on Skyline Blvd west of McNamee Road in the rural West Hills area of unincorporated Multnomah County. The property is surrounded by other properties located in the Commercial Forest Use (CFU) and Exclusive Farm Use (EFU) zones. Parcels in the immediate vicinity vary in size, ranging from approximately one acre to over 80 acres. Most of the small parcels in this area are located adjacent to Skyline Boulevard, McNamee Road, Newberry Road and Brooks Road. Many of these parcels appear to be developed, most with single family homes. Some farming occurs on lands west of the subject parcel, and a commercial nursery also operates to the south and west of the subject parcel. Most of the area to the north of the parcel is less parcelized, typified by steep topography, and has been recently clear cut. Land to the east appears to be forested (see air photo exhibit # 7), although several homes have been developed along Skyline Boulevard. Topography of the subject parcel is severe, with slopes exceeding 40%. However, a relatively narrow flat area, or "shelf," adjoins Skyline Boulevard. This is the location of the applicant's "secondary" building site. Another relatively flat area (staff estimates slopes at under 15%) exists in the western portion of the lot adjacent to the access easement. This flat area, which appears to have been used as a log landing at an earlier date, is the applicant's "primary" dwelling site.

III. OREGON ADMINISTRATIVE RULE CONSIDERATIONS

A. OAR 660-33-130, Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

A NON-FARM RELATED SINGLE FAMILY RESIDENCE REQUIRES APPROVAL OF THE GOVERNING BODY OR ITS DESIGNATE IN ANY FARMLAND AREA ZONED FOR EXCLUSIVE FARM USE.

(A) IN THE WILLAMETTE VALLEY, THE USE MAY BE APPROVED IF:

(A) THE DWELLING OR ACTIVITIES ASSOCIATED WITH THE DWELLING WILL NOT FORCE A SIGNIFICANT CHANGE IN OR SIGNIFICANTLY INCREASE THE COST OF ACCEPTED FARMING OR FOREST PRACTICES ON NEARBY LANDS DEVOTED TO FARM OR FOREST USE;

Applicant's Response: The proposed use of this property for a non-farm dwelling is compatible with the farm uses allowed in ORS 215.213. The location of the proposed dwelling is out of sight and far removed from commercial farm areas. The proposed dwelling will be over 350 feet away and 60 feet lower in elevation from the nearest sensitive farming area to the south. No farming activities occur north, east, or west of the proposed dwelling site. Only a 13.25-acre parcel to the south across Skyline Boulevard is engaged in commercial farm activity, and this is a relatively small farm according to 1987 Census of Agriculture statistics. The physical segregation afforded by the Skyline Boulevard right-of-way and difference in elevation allow the proposed use to be developed without significantly increasing the cost of or significantly changing nearby farming practices.

The location of the dwelling on the subject property will minimize any adverse effects on nearby

farm and forest ownerships. Property ownerships to the east and west are non-resource home-sites. The only commercial farm unit is located directly across Skyline Boulevard to the south. It is used for a commercial nursery operation. The nearest sensitive farming areas on the nursery property are at least 350 feet from the proposed dwelling site. The nearest commercial forest area is located on the parcel directly north of the subject property. The nearest sensitive commercial forest area is more than 480 feet away.

The activities associated with the proposed dwelling development should not significantly affect operations and uses on adjacent parcels. Activities associated with development of the residence will include lawn maintenance, outdoor recreation, and normal traffic to and from the residence. No home occupations or variances are anticipated. It is our understanding that other dwellings in the area coexist with farm and forest operations without conflict.

Staff Comment: Development of a dwelling on this parcel would not have a direct impact on farming or forestry practices. Most farm parcels, located to the south and west, are located a sufficient distance away from the subject parcel or are separated by Skyline Boulevard. Significant forestry has been practiced on the parcels to the north of this dwelling in the past, as evidenced by a recent clear cut. Access to the forested area was via a logging road that runs along the western edge of the parcel. An easement has been granted on this parcel for access to these northern parcels. Development of a dwelling on this site could impact future use of this access, and in turn, future forestry activities on northern parcels could possibly be impeded. However, the site plan submitted acknowledges this easement and specifies the location of the dwelling (primary site) and other on-site features accurately enough to ensure no conflicts with this easement. Therefore staff finds that a dwelling in the primary location specified on the revised site plan will not force a significant change in or significantly increase the cost of forest practices on nearby lands devoted to forest use. The applicant's secondary building site appears to conflict with the access easement, which could increase the cost of forest practices to the north. Therefore, the secondary site must be modified to eliminate conflicts with the easement to meet this criterion.

(B) THE DWELLING WILL BE SITED ON A LOT OR PARCEL THAT IS PREDOMINANTLY COMPOSED OF CLASS IV THROUGH CLASS VIII SOILS THAT WOULD NOT, WHEN IRRIGATED, BE CLASSIFIED AS PRIME, UNIQUE, CLASS I OR CLASS II SOILS;

Applicant's Response: Ninety-five percent of this parcel is mapped as class IV through VIII soils. The subject property is located on the north side of Skyline Boulevard near Cornelius Pass. The property has an existing access near the eastern property boundary. The inherent site characteristics for the subject property such as soil classification and topography make this parcel unsuitable for agricultural use.

Three soil series are located on the subject property according to the Soil Survey for Multnomah County, Oregon. The three series are the Cascade silt loam (7C), Cascade silt loam (7D), and the Goble silt loam (17E). Only the Cascade silt loam (7C) is designated as high-value farmland soil by House Bill 3661 (1995 Session). This soil series comprises less than 4 percent of the total land area of the subject property. This can be seen by examining the northeast corner of the soils

map.

Eighty percent of the soil on the subject property is the Goble silt loam (30 to 60 percent slope). This soil series is class VI and does not meet the OAR definition for agricultural soils in Western Oregon or prime or important soils under House Bill 3661.

Approximately 15 percent of the property is mapped Cascade silt loam (7D) and is not designated high value according to House Bill 3661. This narrow strip of soil wraps around the entire southern and western boundaries in a strip not exceeding 200 feet in width.

The overall pedological profile of this property is very poor for commercial agriculture. More than 95 percent of the site is unsuitable for agricultural use based on the mapped soil series.

The topography of the subject site also makes the site unsuitable for agricultural use. The only relatively level areas on the site are located in the extreme northeast corner of the property and south of the 750-foot contour interval along Skyline Boulevard. These areas coincide with the areas mapped 7C and 7D, respectively. Either of these areas are suitable for development of a single-family residence.

According to the Geologic and Slope Hazard Maps for Unincorporated Multnomah County, Oregon, the bulge south of the 750-foot contour interval and the level area in the northeast corner are both outside geologic hazard areas. The proposed dwelling will be located in one of these two locations. The applicant will place the dwelling south of the 750-foot contour interval to allow space for emergency vehicle access.

Staff Comment: Staff concurs that the property is characterized by soils types 7C (Cascade silt loam), 7D (Cascade silt loam), and 17E (Goble silt loam). Of all three soil types, only 7C is considered to be high value agricultural soil. However, this soil type only represents a small portion (less than 10%) of the property area. Steep topography throughout most of the site also diminishes the probability of productive farming.

(C) THE DWELLING WILL BE SITED ON A LOT OR PARCEL CREATED BEFORE JANUARY 1, 1993;

Applicant's Response: The subject property was legally created before January 1, 1993.

Staff Comment: Staff concurs with the applicant. The parcel was created by contract in 1979 at a time when this parcel was zoned MUA-20, and new parcels were created when bisected by a road. See Lot of Record Discussion, at MCC 11.15.2018, to follow.

(D) THE DWELLING WILL NOT MATERIALLY ALTER THE STABILITY OF THE OVERALL LAND USE PATTERN OF THE AREA. IN DETERMINING WHETHER A PROPOSED NON-FARM DWELLING WILL ALTER THE STABILITY OF THE LAND USE PATTERN IN THE AREA, A COUNTY SHALL CONSIDER THE CUMULATIVE IMPACT OF NON-FARM DWELLINGS ON OTHER LOTS OR PARCELS IN THE AREA SIMILARLY SITUATED.

Applicant's Response: The proposed dwelling will not materially alter the stability of the overall land use pattern of the area. In general, most non-farm dwellings are located on small parcels (under 10 acres) with adverse soils and terrain and within 200 feet of a County-maintained road. This proposal is consistent with the land use pattern of the area because the proposed dwelling will be located on a narrow strip of land adjacent to the Skyline Boulevard right-of-way and situated on a parcel, 95 percent of which, has slopes of at least 20 percent.

The proposed dwelling will be located near existing infrastructure, including utilities and Skyline Boulevard. By locating the residence near Skyline Boulevard, the area to the north can serve as a buffer to nearby forest lands. In conclusion, the location of the dwelling will not be detrimental to farming or forestry.

Staff Comment: Staff concurs with the applicant. Many of the properties along Skyline Boulevard in the vicinity of the subject property are developed with residences. A dwelling on this particular parcel would be relatively isolated from adjacent farm uses, due to topography.

(E) THE DWELLING COMPLIES WITH SUCH OTHER CONDITIONS AS THE GOVERNING BODY OR ITS DESIGNATE CONSIDERS NECESSARY.

Applicant's Response: The owner will comply with any conditions the County considers necessary. The owner requests that any additional conditions be attached to the decision granting the conditional use.

Staff Comment: Recommended Conditions of Approval are included in this document.

IV. ORDINANCE CONSIDERATIONS:

A. MCC 11.15.2012 CONDITIONAL USES

(B) THE FOLLOWING USES MAY BE PERMITTED WHEN APPROVED BY THE HEARINGS OFFICER PURSUANT TO THE PROVISIONS OF MCC .7105 TO .7140:

(3) RESIDENTIAL USE NOT IN CONJUNCTION WITH FARM USE, CONSISTING OF A SINGLE FAMILY DWELLING, INCLUDING A MOBILE OR MODULAR HOME. THE LOT SHALL BE A LOT OF RECORD UNDER MCC .2018 OR HAVE BEEN CREATED UNDER THE APPLICABLE PROVISIONS OF MCC 11.45, LAND DIVISIONS. THE HEARINGS OFFICER SHALL FIND THAT A DWELLING ON THE LOT AS PROPOSED:

(A) IS COMPATIBLE WITH FARM USES DESCRIBED IN PARAGRAPH (A) OF SUBSECTION (2) OF ORS 215.203 AND IS CONSISTENT WITH THE INTENT AND PURPOSES SET FORTH IN ORS 215.243;

Applicant's Response: The proposed use of this property for a non-farm dwelling is compatible with the farm uses allowed in ORS 215.213. The location of the proposed residence is out of sight and far removed from commercial farm areas.

The proposed dwelling will also be consistent with the intent of ORS 215.243. This statute encourages the continuation of commercial agriculture by maintaining farm ownerships in large blocks and discouraging land divisions. This application involves an existing lot of record and does not create a new lot through a land division.

Staff Comment: A revised site plan submitted by the applicant in March 1996 indicates that the primary location of the proposed dwelling will be in the central/western portion of the site. The primary location is relatively isolated from farmland to the west due to topography, and is separated from farmland to the south by Skyline Boulevard. The applicant's secondary dwelling site is located adjacent to Skyline Boulevard which also creates few conflicts with adjacent farmland due to physical separation by topography and Skyline Boulevard.

(B) DOES NOT INTERFERE SERIOUSLY WITH ACCEPTED FARMING PRACTICES, AS DEFINED IN PARAGRAPH (C) OF SUBSECTION (2) OF ORS 215.203, ON ADJACENT LANDS DEVOTED TO FARM USE;

Applicant's Response: The proposed residence will be more than 350 feet away from the nearest sensitive farming area. That area, a 13.25-acre parcel to the south across Skyline Boulevard, is engaged in commercial farm activity. This is a relatively small farm according to 1987 Census of Agriculture statistics. The physical segregation afforded by Skyline Boulevard will decrease any potential interference factor. The 60-foot difference in elevation between the proposed dwelling site and the nearest sensitive farming area also reduces the interference factor. No farming activities occur north, east, or west of the proposed dwelling site.

Staff Comment: Due to the relatively isolated site and topographic features, staff believes that a residence on this site would not interfere with farming on adjacent parcels to the south and west.

(C) DOES NOT MATERIALLY ALTER THE STABILITY OF THE OVERALL LAND USE PATTERN OF THE AREA;

Applicant's Response: The land use pattern in the area is a diverse mix of parcel sizes and uses. Small parcels tend to be located along existing developed roads in the area, while larger parcels tend to be located behind road frontage lots.

This particular action involves an existing 9.29-acre lot located between lots of 9.53 and 2.45 acres. Other small lots along Skyline Boulevard include parcel sizes of 1.74, 1.33, 1.98, 2.0, 3.32, and 5.61 acres. Parcels of 1.0, 4.0, and 7.92 acres are located along N.W. Quarry Road immediately to the southeast. This preponderance of small lots along N.W. Quarry Road and Skyline Boulevard underscores the heavy parcelization in the immediate vicinity. No new lot is being created as a result of this action, and consequently no further destabilization is likely to occur.

Staff Comment: As discussed earlier, staff believes that development of this parcel with a dwelling will not materially alter the stability of the overall land use pattern. Many parcels in

this area, including those along roads such as Skyline and McNamee have already been developed residentially.

- (D) IS SITUATED UPON GENERALLY UNSUITABLE LAND FOR THE PRODUCTION OF FARM CROPS AND LIVESTOCK, CONSIDERING THE TERRAIN, ADVERSE SOIL OR LAND CONDITIONS, DRAINAGE AND FLOODING, VEGETATION, LOCATION AND SIZE OF THE TRACT;

Applicant's Response: According to the Soil Survey for Multnomah County, Oregon, 85 percent of the property is made up of class VI soils with 30 to 50 percent slopes. The remaining 15 percent is composed of lands that are relatively steep (1.4 acres at 15 to 30 percent slope) or moderately steep (.4 acres at 7 to 12 percent slope).

According to the Geologic and Slope Hazard Maps for Unincorporated Multnomah County Oregon, portions of the property are in a geologic hazard area (see Exhibit 6).

The topography of the property does not automatically preclude the prudent use of this parcel for agriculture. The odd configuration, steepness, and disjointed location of agriculturally rated soils make the reasonable use of this land for agriculture difficult.

The amount of land that is level enough for cultivated crops is no more than one acre. Even some of the area mapped 7D with 15 to 30 percent slopes is too steep for cultivated crops. Nearly 90 percent of the property is too steep and the slopes too fragile for serious consideration as livestock land. No animal unit month rating for livestock is provided by the USDA when Goble series soils occupy 85 percent of the site.

Commercial nursery stock operations located on the south side of Skyline Boulevard cannot reasonably incorporate any portion of this property into their farming operations because of the location of Skyline Boulevard. Moreover, insufficient developable land for commercial agriculture is available on this parcel.

Staff Comment: Staff concurs with the applicant. The parcel is composed of soils which are Class VI with 30 to 50 percent slopes.

- (E) COMPLIES WITH SUBPARTS (1), (2) AND (3) OF MCC .2010(A) IF CONSTRUCTED OFF-SITE;

Applicant's Response: This criterion is not applicable.

Staff Comment: Staff concurs with the applicant. The type of dwelling has not been specified. However, as a Condition of Approval, any future dwelling will be required to demonstrate compliance with these provisions prior to building permit approval.

- (F) COMPLIES WITH SUCH OTHER CONDITIONS AS THE HEARINGS OFFICER CONSIDERS NECESSARY TO SATISFY THE PURPOSES OF MCC .2002;

Applicant's Response: The applicant is willing to comply with any conditions that the

Hearings Officer considers necessary.

- (G) CONSTRUCTION SHALL COMPLY WITH THE STANDARDS TO THE BUILDING CODE OR AS PRESCRIBED UNDER ORS 446.002 THROUGH 446.200, RELATING TO MOBILE HOMES;

Applicant's Response: This criterion is not applicable unless a mobile home is placed on the property by a subsequent purchaser.

Staff Comment: Staff concurs with the applicant. However, as a Condition of Approval, any future dwelling will be required to demonstrate compliance with these provisions prior to building permit approval.

- (H) THE DWELLING SHALL BE ATTACHED TO A FOUNDATION FOR WHICH A BUILDING PERMIT HAS BEEN OBTAINED; AND

Applicant's Response: The applicant or a subsequent purchaser will comply with this standard.

Staff Comment: A specific dwelling has not been proposed on this site. However, as a Condition of Approval, any future dwelling will be required to demonstrate compliance with these provisions prior to building permit approval.

- (I) THE DWELLING SHALL HAVE A MINIMUM FLOOR AREA OF 600 SQUARE FEET.

Applicant's Response: Any dwelling either placed or constructed on this site will have a floor area of at least 600 square feet.

Staff Comment: A specific dwelling has not been proposed on this site. However, as a Condition of Approval, any future dwelling will be required to demonstrate compliance with this provision prior to building permit approval.

- (J) THE OWNER SHALL RECORD WITH THE DIVISION OF RECORDS AND ELECTIONS A STATEMENT THAT THE OWNER AND SUCCESSORS IN INTEREST ACKNOWLEDGE THE RIGHTS OF NEARBY PROPERTY OWNERS TO CONDUCT ACCEPTED FARMING AND FORESTRY PRACTICES.

Applicant's Response: The owner will comply with this requirement.

Staff Comment: A statement acknowledging the rights of nearby property owners to conduct accepted farming and forestry practices has not been recorded to date. As a Condition of Approval, the owner will be required to demonstrate compliance with this provision prior to building permit approval.

- (K) THE APPLICANT SHALL PROVIDE EVIDENCE THAT ALL ADDITIONAL TAXES AND PENALTIES, IF ANY, HAVE BEEN PAID IF THE PROPERTY HAS BEEN RECEIVING SPECIAL ASSESSMENT AS DESCRIBED IN ORS 215.236(2). IN THE ALTERNATIVE, THE APPROVAL AUTHORITY MAY ATTACH CONDITIONS TO ANY APPROVAL TO INSURE COMPLIANCE WITH THIS PROVISION.

Applicant's Response: The Applicant has contacted the Multnomah County Assessor's Office regarding the current tax status. The subject property is currently assessed at a deferred taxation rate for timber. Upon approval of the Conditional Use Permit, the owner will disqualify the subject property from farm use taxation and meet all of the conditions set forth in this criterion.

Staff Comment: The applicant has not provided evidence of compliance with this criterion. Therefore, as a Condition of Approval, prior to approval of any other residential-related permits, the owner shall disqualify the subject property from farm use taxation and meet all of the conditions set forth in this criterion by paying any additional taxes and penalties as determined by Multnomah County.

B. MCC 11.15.2018 LOT OF RECORD

(A) FOR THE PURPOSES OF THIS DISTRICT, A LOT OF RECORD IS:

(2) A PARCEL OF LAND:

- (A) FOR WHICH A DEED OR OTHER INSTRUMENT CREATING THE PARCEL WAS RECORDED WITH THE DEPARTMENT OF GENERAL SERVICES, OR WAS IN RECORDABLE FORM PRIOR TO FEBRUARY 20, 1990;
- (B) WHICH SATISFIED ALL APPLICABLE LAWS WHEN THE PARCEL WAS CREATED;
- (C) DOES NOT MEET THE MINIMUM LOT SIZE REQUIREMENTS OF MCC .2016; AND
- (D) WHICH IS NOT CONTIGUOUS TO ANOTHER SUBSTANDARD PARCEL OR PARCELS UNDER THE SAME OWNERSHIP, OR

Applicant's Response: Tax lot 59 was part of a larger tract containing 22.54 acres. Skyline Boulevard bisects the property. Tax lot 59 was previously zoned Multiple Use Agriculture (MUA-20). Section 3.134.2, "Lot of Record," of the MUA-20 district ordinance provided as follows: "Separate lots of record shall be deemed created when a street or zoning district boundary intersects a parcel of land."

Because NW Skyline Boulevard bisects the larger parcel, two lots of record were created pursuant to the MUA-20 district: Tax Lot 59 and Tax Lot 1. Therefore, when Nellie May Brooks conveyed Tax Lot 59 to Michael Kruger and Gayle Brooks Kruger in 1979, she conveyed a lot which satisfied all applicable laws when the parcel was created pursuant to the then effective MCC 3.142.2(c).

Staff Comment: Staff concurs with the applicant. The lot was created in 1979 when it was conveyed by contract. The lot was, at the time, zoned MUA-20 which recognized separate lots of record for land bisected by a street or zoning district boundary (Exhibit 4).

C. MCC 11.15.7120 CONDITIONAL USE APPROVAL CRITERIA

IN APPROVING A CONDITIONAL USE, THE HEARINGS OFFICER SHALL FIND THAT THE PROPOSAL:

- (1) IS CONSISTENT WITH THE CHARACTER OF THE AREA;

Applicant's Response: The Applicant's area is characterized by a diverse mix of parcel sizes and uses. Small parcels tend to be located along existing developed roads in the area, while larger parcels tend to be located behind road frontage lots.

This application involves an existing 9.29-acre lot located between lots of 9.53 and 2.45 acres. Other small lots along Skyline Boulevard include parcel sizes of 1.74, 1.33, 1.98, 2.0, 3.32, and 5.61 acres. Parcels of 1.0, 4.0, and 7.92 acres are located along N.W. Quarry Road immediately to the southeast. This number of small lots along N.W. Quarry Road and Skyline Boulevard underscores the heavy parcelization in the immediate vicinity. No new lot is being created as a result of this action, and consequently the Applicant's proposal is consistent with the character of the area.

Staff Comment: Staff concurs with the applicant.

- (2) WILL NOT ADVERSELY AFFECT NATURAL RESOURCES;

Applicant's Response: The proposed use of this property for a non-farm residence is compatible with and will not adversely affect the natural resources of this area. The Applicant is siting the residence near Skyline Boulevard to minimize the impact to natural resources of bringing utilities to the residence. The residence will also be sited on the ridge above the steep slopes on the property to avoid adversely affecting the natural drainage patterns of the area.

Staff Comment: Staff concurs that development of this site will not adversely affect natural resources.

- (3) WILL NOT CONFLICT WITH FARM OR FOREST USES IN THE AREA;

Applicant's Response: The proposed dwelling will be more than 350 feet away from the nearest sensitive farming area. Only a 13.25-acre parcel to the south across Skyline Boulevard is engaged in commercial farm activity, and this is a relatively small farm according to 1987 Census of Agriculture statistics. The physical segregation afforded by the Skyline Boulevard will decrease any potential conflict with farm or forest uses. The difference in elevation between the proposed residence site and the nearest sensitive farming area will also reduce any conflicts with neighboring farm and forest uses. No farming activities occur north, east, or west of the proposed dwelling site.

Staff Comment: As noted earlier, conflicts with nearby farms is minimized due to topography

and existing roadways. However, significant forestry has been practiced on parcels to the north of the subject property. Access to northern forest parcels is currently provided via an access easement through the subject property. Location of a dwelling on the parcel could create conflicts with forestry in the area if access to these parcel is impaired. A dwelling located at the primary site will not conflict with nearby farm or forest uses because there are no conflicts with this access easement. Conflicts with this easement exist with the secondary site and must be resolved before a dwelling could be sited at this location.

- (4) WILL NOT REQUIRE PUBLIC SERVICES OTHER THAN THOSE EXISTING OR PROGRAMMED FOR THE AREA;

Applicant's Response: The proposed residence will not require public services other than those existing or planned for the area. Please refer to attached service provider forms (see Exhibit 8).

Staff Comment: Staff concurs with the applicant. No additional public services will be required to serve the proposed development.

- (5) WILL BE LOCATED OUTSIDE A BIG GAME WINTER HABITAT AREA AS DEFINED BY THE OREGON DEPARTMENT OF FISH AND WILDLIFE OR THAT AGENCY HAS CERTIFIED THAT THE IMPACTS WILL BE ACCEPTABLE;

Applicant's Response: The residence will not be located in big game wintering habitat (see Exhibit 9).

Staff Comment: The parcel is located outside a big game winter habitat area (case file Exhibit 2 (9))

- (6) WILL NOT CREATE HAZARDOUS CONDITIONS; AND

Applicant's Response: The placement of the Applicant's proposed residence will minimize any hazardous conditions that may arise if the residence were sited on the property's steep slopes. The residence will not create any hazardous conditions for adjacent property owners, and all structures erected on the property will meet all UBC requirements.

Staff Comment: Most of the subject site is subject to severe slopes, The entire parcels is identified as a hazard area on the Multnomah County Slope Hazard Map. The applicant has submitted Multnomah County's *HDP Form-1* prepared by a professional engineering geologist, Kevin Foster of Foster Geotechnical. In this form, Foster Geotechnical indicates that development of the property with a dwelling on the "primary" site will not create potential land stability problems for the subject property and adjacent suites, provided additional geotechnical work, including a soils report, are performed on site prior to development. The HDP Form-1 does not specifically address the secondary building site. Foster Geotechnical recommends that further studies address foundation embedments, site drainage, grading and building setbacks. The consultant also notes that there is a remote possibility that subsurface disposal of sewage effluent could cause stability problems. Therefore, as a Condition of Approval, a geotechnical evaluation shall

be required along with a Hillside Development Permit (MCC 11.15.6700-.6735) prior to obtaining building permits.

(7) WILL SATISFY THE APPLICABLE POLICIES OF THE COMPREHENSIVE PLAN.

Applicant's Response: Please see discussion of applicable Comprehensive Plan policies below.

Staff Comment: See applicable Comprehensive Plan policies below.

D. MCC 11.15.7122 EXCLUSIVE FARM USE CONDITIONAL USE APPROVAL CRITERIA

(A) IN ADDITION TO THE CRITERIA OF MCC .7120, AN APPLICANT FOR A CONDITIONAL USE LISTED IN MCC .2012(B) MUST DEMONSTRATE THAT THE USE:

(1) WILL NOT FORCE A SIGNIFICANT CHANGE IN ACCEPTED FARM OR FOREST PRACTICES ON SURROUNDING LANDS DEVOTED TO FARM OR FOREST USE; AND

Applicant's Response: The location of the residence will minimize any adverse effects on nearby farm and forest ownerships. Property ownerships to the east and west are non-resource homesites. The only commercial farm unit is located directly across Skyline Boulevard to the south. The neighboring property is used for a commercial nursery operation, but the nearest sensitive farming areas are at least 350 feet from the proposed building site. The nearest commercial forest area is located on the parcel directly north of the subject property, and the nearest sensitive farming area is more than 480 feet away.

Staff Comment: See previous discussions related to impacts on farm and forest lands.

(2) WILL NOT SIGNIFICANTLY INCREASE THE COST OF ACCEPTED FARM OR FOREST PRACTICES ON SURROUNDING LANDS DEVOTED TO FARM OR FOREST USE.

Applicant's Response: The activities associated with the proposed residence will not significantly increase the cost of accepted farm and forest practices. These activities will include lawn maintenance, outdoor recreation, and normal traffic to and from the residence. No home occupations or variances are anticipated. Adjacent farming practices are separated from the property by Skyline Boulevard. Other dwellings are located in the area, particularly along road frontages. The proposed residence will not increase the cost of farm and forestry practices on surrounding lands.

Staff Comment: No evidence has been submitted with respect to the effect on the cost of farm and forest practices on adjacent lands. However, due to the relative isolation of the proposed dwelling no impacts are anticipated. As a Condition of Approval the owners will be required to sign a statement recognizing the rights of nearby property owners to conduct farm and forest operations.

As noted earlier, development of a dwelling may create conflicts with an forestry-related access

easement on this parcel. However, the revised site plan detailing the location of the house with respect to the easement has been submitted. Due to the proposed "primary" location of the dwelling with respect to the easement, staff finds that the costs of forestry practices will not increase due to conflicts with the easement.

(B) FOR THE PURPOSES OF THIS SUBSECTION SURROUNDING LANDS DEVOTED TO FARM OR FOREST USE SHALL NOT INCLUDE:

- (1) PARCELS WITH A SINGLE FAMILY RESIDENCE APPROVED UNDER MCC .2012(B)(3);
- (2) EXCEPTION AREAS; OR
- (3) LANDS WITHIN THE URBAN GROWTH BOUNDARY.

(C) ANY CONDITIONS PLACED ON A CONDITIONAL USE APPROVED UNDER THIS SUBSECTION SHALL BE CLEAR AND OBJECTIVE.

V. COMPREHENSIVE PLAN POLICIES

(1) POLICY NO. 9, AGRICULTURAL LAND. THE COUNTY'S POLICY IS TO DESIGNATE AND MAINTAIN AS EXCLUSIVE AGRICULTURAL, LAND AREAS WHICH ARE:

- A. PREDOMINANTLY AGRICULTURAL SOIL CAPABILITY I, II, III, AND IV, AS DEFINED BY U.S. SOIL CONSERVATION SERVICE;
- B. OF PARCEL SIZES SUITABLE FOR COMMERCIAL AGRICULTURE;
- C. IN PREDOMINANTLY COMMERCIAL AGRICULTURE USE; AND
- D. NOT IMPACTED BY URBAN SERVICE; OR
- E. OTHER AREAS, PREDOMINANTLY SURROUNDED BY COMMERCIAL AGRICULTURE LANDS, WHICH ARE NECESSARY TO PERMIT FARM PRACTICES TO BE UNDERTAKEN ON THESE ADJACENT LANDS.

THE COUNTY'S POLICY IS TO RESTRICT THE USE OF THESE LANDS TO EXCLUSIVE AGRICULTURE AND OTHER USES, CONSISTENT WITH STATE LAW, RECOGNIZING THAT THE INTENT IS TO PRESERVE THE BEST AGRICULTURAL LANDS FROM INAPPROPRIATE AND INCOMPATIBLE DEVELOPMENT.

Applicant's Response: The intention of this policy is to maintain parcels of land that are predominantly agricultural soil capability class I through IV. As indicated previously, 85 percent of this site is mapped as class VI and over 95 percent has slopes in excess of 20 percent.

The maximum amount of land suitable for commercial agriculture is no more than one acre. The farmable area on the property is no more than one acre.

This parcel is also affected by several non-farm dwelling sites on the east, west, and south. Bona fide commercial farm units are absent in all directions except to the south where a commercial nursery operates. Thus, this proposal is consistent with the policy to maintain identified commercial agricultural land.

Staff Comment: Staff concurs with the applicant.

- (2) **POLICY NO. 13, AIR, WATER AND NOISE QUALITY. MULTNOMAH COUNTY, ... SUPPORTS EFFORTS TO IMPROVE AIR AND WATER QUALITY AND TO REDUCE NOISE LEVELS. ... FURTHERMORE, IT IS THE COUNTY'S POLICY TO REQUIRE, PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION, A STATEMENT FROM THE APPROPRIATE AGENCY THAT ALL STANDARDS CAN BE MET WITH RESPECT TO AIR QUALITY, WATER QUALITY, AND NOISE LEVELS.**

Applicant's Response: This policy calls for the maintenance and enhancement of air and water quality and the reduction of noise. This parcel is not in a noise congested area and it is not a noise generator. No state or federal agency imposes air quality standards on a single-family residence, and the proposed use does not pose a threat to the County's air quality.

Water quality could be threatened by inadequate on-site sewage disposal. To eliminate this risk, the Applicant will install an adequate on-site subsurface sewage disposal system. In 1991, the Portland Bureau of Buildings conducted a site evaluation report for purposes of determining the appropriate subsurface sewage disposal drainfield system for the subject property. Based on that report, an on-site sewage disposal system was determined to be adequate and appropriate. This system will eliminate any adverse water quality effects.

Staff Comment: There are no known measurement standards for the air and noise quality impacts of a single family dwelling. However, single family dwellings typically have little impact on air and noise quality, particularly in rural areas. For single family dwellings in rural areas, compliance with the water quality policy is typically shown by submitting an approved Land Feasibility Study (LFS), evidence that the land is capable of supporting an on-site sewage disposal system. A Land Feasibility Study (LFS) was conducted for this site in 1991 (LFS 6-91). This study found the site suitable for an on-site sewage disposal system. However, due to changes in the site plan, the City of Portland's Senior Environmental Soils Inspector has determined that LFS 6-91 may no longer be valid (Exhibit 19). Therefore, as a Condition of Approval, prior to obtaining a building permit the applicant will be required to provide evidence of an approved LFS, either a new approval or conformation of the validity of LFS 6-91, for a dwelling located at the "primary" or "secondary" site.

- (3) **POLICY NO. 14, DEVELOPMENTAL LIMITATIONS. THE COUNTY'S POLICY IS TO DIRECT DEVELOPMENT AND LAND FORM ALTERATIONS AWAY FROM**

AREAS WITH DEVELOPMENT LIMITATIONS EXCEPT UPON A SHOWING THAT DESIGN AND CONSTRUCTION TECHNIQUES CAN MITIGATE ANY PUBLIC HARM OR ASSOCIATED PUBLIC COST, AND MITIGATE ANY ADVERSE EFFECTS TO SURROUNDING PERSONS OR PROPERTIES. DEVELOPMENT LIMITATIONS AREAS ARE THOSE WHICH HAVE ANY OF THE FOLLOWING CHARACTERISTICS:

- A. SLOPES EXCEEDING 20%;
- B. SEVERE SOIL EROSION POTENTIAL;
- C. LAND WITHIN THE 100 YEAR FLOOD PLAIN;
- D. A HIGH SEASONAL WATER TABLE WITHIN 0-24 INCHES OF THE SURFACE FOR 3 OR MORE WEEKS OF THE YEAR;
- E. A FRAGIPAN LESS THAN 30 INCHES FROM THE SURFACE;
- F. LAND SUBJECT TO SLUMPING, EARTH SLIDES OR MOVEMENT.

Applicant's Response: This policy calls for development to be directed away from or mitigated on land with development limitations. This parcel is not within a 100 year floodplain.

The parcel is composed of three soil types: Cascade Silt Loam (symbol 7C), 8 to 15 percent slopes; Cascade Silt Loam (symbol 7D), 15 to 30 percent slopes; and Goble Silt Loam (symbol 17E), 30 to 60 percent slopes. (See Exhibit 2, Soil Survey Multnomah County, Oregon, Soil Conservation Service, USDA, 1983). Cascade Silt Loam 7C has a low shrink-swell potential. (*Id.* at 215). Soil erosion potential is moderate. (*Id.* at 24.) Cascade Silt Loam 7D also has a low shrink-swell potential (*id.* at 215), but high soil erosion potential (*id.* at 25). Goble Silt Loam 17E has a low shrink-swell potential (*id.* at 216), and a high soil erosion potential.

The residence site is located on a moderately sloped area near Skyline Boulevard and away from significantly sloped areas to the north. The residence site is also located away from the identified geologically hazardous area in the center of the property. The Applicant will be submitting the County's HDP-1 form as part of the Application.

The property is not subject to other limitations described in Policy 14. Therefore, although the property generally contains identified geologic hazard areas, the building site itself contains 10 percent slopes and stable soils and is not subject to development limitations.

Staff Comment: The site is typified by steep slopes in all but a few areas. The entire parcels is identified as a hazard area on the Multnomah County Slope Hazard Map. As noted earlier, Foster geotechnical performed a site evaluation and submitted an *HDP Form-1* indicating that the proposed development would not create potential slope stability problems provided that a thorough soils evaluation that addresses foundation embedments, site drainage, grading and other issues, be conducted prior to site development. As a Condition of Approval, a geotechnical evaluation shall be required along with a Hillside Development Permit (MCC 11.15.6700-.6735) prior to obtaining building permits.

(4) POLICY NO. 16, NATURAL RESOURCES. THE COUNTY'S POLICY IS TO PRO-

TECT NATURAL RESOURCES, CONSERVE OPEN SPACE, AND TO PROTECT SCENIC AND HISTORIC AREAS AND SITES. THESE RESOURCES ARE ADDRESSED WITHIN SUB-POLICIES 16-A THROUGH 16-L.

Staff Comment: Compliance with this Plan Policy can be demonstrated through application of MCC 11.15.6400, Significant Environmental Concern-Wildlife Habitat. As a Condition of Approval, compliance with the provisions of this section of the Zoning Ordinance will be required prior to building permit approval.

(5) **POLICY NO. 22, ENERGY CONSERVATION.** THE COUNTY'S POLICY IS TO PROMOTE THE CONSERVATION OF ENERGY AND TO USE ENERGY RESOURCES IN A MORE EFFICIENT MANNER. ... THE COUNTY SHALL REQUIRE A FINDING PRIOR TO THE APPROVAL OF LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT THE FOLLOWING FACTORS HAVE BEEN CONSIDERED:

- A. THE DEVELOPMENT OF ENERGY-EFFICIENT LAND USES AND PRACTICES;
- B. INCREASED DENSITY AND INTENSITY OF DEVELOPMENT IN URBAN AREAS, ESPECIALLY IN PROXIMITY TO TRANSIT CORRIDORS AND EMPLOYMENT, COMMERCIAL AND RECREATIONAL CENTERS;
- C. AN ENERGY-EFFICIENT TRANSPORTATION SYSTEM LINKED WITH INCREASED MASS TRANSIT, PEDESTRIAN AND BICYCLE FACILITIES;
- D. STREET LAYOUTS, LOTTING PATTERNS AND DESIGNS THAT UTILIZE NATURAL ENVIRONMENTAL AND CLIMACTIC CONDITIONS TO ADVANTAGE.
- E. FINALLY, THE COUNTY WILL ALLOW GREATER FLEXIBILITY IN THE DEVELOPMENT AND USE OF RENEWABLE ENERGY RESOURCES.

Applicant's Response: This policy encourages energy conservation. The property is adjacent to an existing County road and other dwellings. No transit service is provided to the property. It can also be served by existing utilities. This request is not for urban development because it is on an existing lot of record. Therefore, the request does not encourage urban sprawl and relies on existing transportation and utility facilities to serve the dwelling. Sections (A) through (E) of this policy are inapplicable to a single-family dwelling permit on an existing lot of record.

Staff Comment: Staff concurs with the applicant.

(6) **POLICY NO. 37, UTILITIES.** THE COUNTY'S POLICY IS TO REQUIRE A FINDING PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

WATER AND DISPOSAL SYSTEM

- A. THE PROPOSED USE CAN BE CONNECTED TO A PUBLIC SEWER AND WATER SYSTEM, BOTH OF WHICH HAVE ADEQUATE CAPACITY; OR
- B. THE PROPOSED USE CAN BE CONNECTED TO A PUBLIC WATER SYSTEM, AND THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) WILL APPROVE A SUBSURFACE SEWAGE DISPOSAL SYSTEM ON THE SITE; OR
- C. THERE IS AN ADEQUATE PRIVATE WATER SYSTEM, AND THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) WILL APPROVE A SUBSURFACE SEWAGE DISPOSAL SYSTEM; OR
- D. THERE IS AN ADEQUATE PRIVATE WATER SYSTEM, AND A PUBLIC SEWER WITH ADEQUATE CAPACITY:
DRAINAGE
- E. THERE IS ADEQUATE CAPACITY IN THE STORM WATER SYSTEM TO HANDLE THE RUN-OFF; OR
- F. THE WATER RUN-OFF CAN BE HANDLED ON THE SITE OR ADEQUATE PROVISIONS CAN BE MADE; AND
- G. THE RUN-OFF FROM THE SITE WILL NOT ADVERSELY AFFECT THE WATER QUALITY IN ADJACENT STREAMS, PONDS, LAKES OR ALTER THE DRAINAGE ON ADJOINING LANDS.

ENERGY AND COMMUNICATIONS

- H. THERE IS AN ADEQUATE ENERGY SUPPLY TO HANDLE THE NEEDS OF THE PROPOSAL AND THE DEVELOPMENT LEVEL PROJECTED BY THE PLAN; AND
- I. COMMUNICATIONS FACILITIES ARE AVAILABLE.

Applicant's Response: Water: The applicant will establish a private well to provide water to this site. Based on the production of adjacent property wells, the Applicant expects to drill a 150-foot well, obtain a 40-foot static water level, and have a flow rate of 15 gallons per minute. Disposal System: The site can accommodate an adequate subsurface sewage disposal system. Drainage: Drainage can be retained on the site. Energy and Communications: Adequate telephone and electric utilities serve the site.

Staff Comment: Water and Disposal: The property is not served by a public water supply system and no evidence has been submitted indicating that an on-site water supply is available. As a Condition of Approval proof of an adequate on-site water supply will be required prior to building permit approval. A Land feasibility Study (LFS 6-91) determined this parcel was suit-

able for an on-site sewage disposal system. As noted earlier, due to changes in the proposed site plan, LFS 6-91 may no longer be considered valid by the City of Portland, the agency contracted by Multnomah County to certify on-site disposal systems. Therefore, as a Condition of Approval, prior to obtaining a building permit, the applicant will be required to provide evidence of a valid, approved LFS for a dwelling on the primary or secondary site.

Drainage: Storm water drainage has not been addressed but will be further analyzed in the Hillside Development and Erosion Control process required as a Condition of Approval prior to obtaining building permit approval.

Energy and Communications: Telephone and electric utilities are available in the vicinity and can be provided to the site.

- (7) **POLICY NO. 38, FACILITIES.** THE COUNTY'S POLICY IS TO REQUIRE A FINDING PRIOR TO APPROVAL OF A LEGISLATIVE OR QUASI-JUDICIAL ACTION THAT:

SCHOOL

- A. THE APPROPRIATE SCHOOL DISTRICT HAS HAD AN OPPORTUNITY TO REVIEW AND COMMENT ON THE PROPOSAL.

FIRE PROTECTION

- B. THERE IS ADEQUATE WATER PRESSURE AND FLOW FOR FIRE FIGHTING PURPOSES; AND
- C. THE APPROPRIATE FIRE DISTRICT HAS HAD AN OPPORTUNITY TO REVIEW AND COMMENT ON THE PROPOSAL.

POLICE PROTECTION

- D. THE PROPOSAL CAN RECEIVE ADEQUATE LOCAL POLICE PROTECTION IN ACCORDANCE WITH THE STANDARDS OF THE JURISDICTION PROVIDING POLICE PROTECTION.

Applicant's Response: The school district has reviewed and commented on the application and has no negative comments. The Portland Police Bureau has commented on the application and also has no negative comments. The Fire District has had an opportunity to review and comment on the proposal, and it has no negative comments.

Staff Comment: The Portland Police Bureau has determined that service can be provided to the site. The Portland Public School District has also determined that capacity is adequate to provide service for a proposed single family dwelling. Fire protection service is provided by the Tualatin Valley Fire and Rescue District (TVFRD). The Fire District has noted that fire fighting

water supply and access to the structure shall be provided as required by TVFRD Ordinance 92-01. Plans showing hydrants and access complying with Ordinance 92-01 shall be submitted to the TVFRD office for review and approval prior to construction. As a Condition of Approval, evidence of this approval will be required by Multnomah County prior to issuance of a building permit.

Conclusions

1. A single family dwelling should not be located in the "secondary" site as indicated on the revised site plan (Exhibit 15) unless conflicts with the access easement indicated on the site plan can be resolved.
2. The proposal for a single-family dwelling located in the "primary" site as indicated on the revised site plan (Exhibit 15) is not capable of meeting all the approval criteria applicable to this proposal.
3. By applying Conditions of Approval, the a single family dwelling located in the "primary" site as indicated on the revised site plan (Exhibit 15) can satisfy all applicable approval criteria.

* * *

This Staff Report and recommendation was available on March 13, 1996 seven days before the March 20, 1996 public hearing scheduled before a County Hearings Officer. The Hearings Officer may announce a decision on the item (1) at the close of the hearing; (2) upon continuance to a date and time certain; or (3) after the close of the record following the hearing.

A written decision is usually mailed to all parties and filed with the Clerk of the Board within ten days of the decision by the Hearings Officer.

Appeal to the Board of County Commissioners

The Hearings Officer Decision may be appealed to the Board of County Commissioners (Board) by any person or organization who appears and testifies at the hearing, or by those who submit written testimony into the record. An appeal must be filed with the County Planning Division within ten days after the Hearings Office decision is submitted to the Clerk of the Board. An appeal requires a completed "Notice of Review" form and a fee of \$500.00 plus a \$3.50 – per-minute charge for a transcript of the initial hearing(s). [ref. MCC 11.15.8260(A)(1) and MCC 11.15.9020(B)] Instructions and forms are available at the County Planning and Development Office at 2115 SE Morrison Street (in Portland) or you may call 248-3043.

Failure to raise an issue by the close of the record at or following the final hearing, (in person or by letter), precludes appeal to the Land Use Board of Appeals (LUBA) on that issue. Failure to provide specificity on an issue sufficient for the Board to respond, precludes appeal to LUBA on that issue.

SOIL SURVEY OF MULTNOMAH COUNTY

USDA SCS

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SOIL SURVEY

This soil is in capability subclass Vle.

17E—Goble silt loam, 30 to 60 percent slopes. This steep, moderately drained soil is on convex side slopes of ridgetops. This soil formed in silty materials mixed with volcanic ash. Elevation is 200 to 1,600 feet. The average annual precipitation is 60 to 70 inches, the average annual air temperature is 47 to 50 degrees F, and the frost-free period is 120 to 165 days.

Typically, the surface layer is very dark grayish brown silt loam about 14 inches thick. The upper part of the subsoil is dark brown silt loam and silty clay loam about 23 inches thick. The lower part of the subsoil is a mottled, dark yellowish brown, silty clay loam fragipan to a depth of 60 inches or more.

Included with this soil in mapping are areas of Cascade and Wauld soils and other Goble soils. The included soils make up as much as 15 percent of this map unit. Also included in mapping in T. 1 S., R. 1 E., are areas of Goble soils, but these soils have basalt bedrock at a depth of 40 to 60 inches.

Permeability is moderate above the fragipan and slow in the fragipan. Effective rooting depth is 30 to 48 inches. Available water capacity is 8 to 10 inches. Water-supplying capacity is 20 to 22 inches. Runoff is rapid, and the hazard of erosion is high. A water table is within a depth of 4 feet from December through April.

This soil is used for timber production, urban development, and wildlife habitat.

Vegetation is Douglas-fir, western hemlock, grand fir, western redcedar, red alder, bigleaf maple, red huckleberry, western hazel, vine maple, willow, thimbleberry, Cascade Oregon-grape, trailing blackberry, salal, common snowberry, swordfern, and forbs, including Pacific trillium and violets.

This soil is suited to Douglas-fir. The site index for Douglas-fir on this soil ranges from 145 to 155. Based on a site index of 149 this soil is capable of producing about 9,920 cubic feet from a fully stocked stand of 70-year old trees, or 55,020 board feet (international rule, one-fourth inch kerf) of merchantable timber from a fully stocked stand of 80-year old trees. Brushy species including salal, Cascade Oregon-grape, and common snowberry restrict natural regeneration of Douglas-fir.

The main limitations for timber production are the slowly permeable fragipan at a depth of 30 to 45 inches and the resultant perched water table from December through April. Some windthrow is possible because of the restricted rooting depth. Because of the steep slopes, such logging methods as aerial, high-lead, or skyline should be used for tree harvesting. Roads and landings can be protected from erosion by constructing water bars and by seeding cuts, fills, and skidroads. Slumping occurs on road cuts and requires additional maintenance. All-season roads on this soil need a heavy base of rock.

In the mild, high rainfall areas of the Coast Range Mountains vegetation grows rapidly on this soil. Vegeta-

tional stages change dramatically as a result of clear-cut logging and fires.

The potential to produce wildlife, especially black-tailed deer, depends on the clearing of land and on the availability of new growth of trees, shrubs, and grasses. As new forest develops and most of the ground vegetation decreases, the deer population returns to a low level. As the trees grow larger, species such as blue grouse are favored. Suitable habitat is common for species such as Roosevelt elk, black bear, coyote, bobcat, skunks, weasels, raccoon, mountain beaver, rabbits, and squirrels. Resident or seasonally abundant birds are hawks, owls, jays, ravens, vultures, woodpeckers, grouse, mountain quail, band-tailed pigeon, and many small birds. Fur-bearing animals such as beaver, mink, and otter are common along larger streams. Most of the potential for wildlife habitat depends on the management of existing plant communities.

Increased population growth has resulted in increased home construction on this soil. This soil has severe limitations for dwellings and roads because of steep slopes. Other limitations are the seasonal high water table, low bearing strength, and the slowly permeable fragipan at a depth of 30 to 45 inches. Excavating during summer is difficult because of the strongly compacted fragipan. Slumping is possible in areas of cut and fill, and additional maintenance of banks, roads, and building foundations is required. A seasonal water table is perched on top of the fragipan, and drainage is required for best results with basements. Irrigation during summer is desirable for lawn grasses, shrubs, vines, vegetables, and most shade and ornamental trees. To establish plants in areas in which the surface layer has been removed and the fragipan exposed is difficult. Mulching and fertilizing cut areas help establish plants. Plants that tolerate droughty conditions should be selected if irrigation is not provided.

* This soil is in capability subclass Vle.

18C—Goble-Urban land complex, 3 to 15 percent slopes. This complex consists of moderately well drained Goble soils. In most areas of this complex the soils have been graded, cut, filled, or otherwise disturbed. This complex is on rolling ridgetops. Slopes are convex. Areas are generally irregular in shape and 25 to 100 acres in size. The Goble soils and Urban land are in such an intricate pattern or so small in area that to separate them in mapping was not practical. Elevation is 200 to 1,600 feet. The average annual precipitation is 60 to 70 inches, the average annual air temperature is 47 to 50 degrees F, and the frost-free period is 120 to 165 days.

About 20 percent of this complex are areas of Goble soils that are relatively undisturbed. Typically, the surface layer is very dark grayish brown silt loam about 14 inches thick. The upper part of the subsoil is dark brown silt loam and silty clay loam about 23 inches thick. The lower part of the subsoil is a mottled, dark yellowish brown, silty clay loam fragipan to a depth of 60 inches or more.

EXHIBIT

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and the resultant perched water table from December through April. Some windthrow of trees is possible because of restricted rooting depth. When the soil is wet, the use of some conventional logging systems is limited. Roads and landings can be protected from erosion by constructing water bars and by seeding cuts and fills. All-season roads on this soil need a heavy base of rock.

This soil is along a fringe area that is transitional from valley to forested hills. Openland and woodland are almost equal in extent. A wide variety of grain and grasses along with shrubs and trees furnish good food and cover for wildlife. Resident and seasonal wildlife in areas of this soil include black-tailed deer, Roosevelt elk, black bear, coyote, bobcat, raccoon, skunks, foxes, opossum, rabbits, squirrels, mice, moles, and gophers. Common birds are hawks, owls, jays, ravens, crows, vultures, woodpeckers, insect eaters, mourning doves, band-tailed pigeon, ruffed grouse, blue grouse, mountain quail, California quail, ring-necked pheasant, and many kinds of small birds. Potential is good for building ponds for fish and wildlife on this soil. Ponds have been built, and fish production generally is good in these ponds. Most of the potential for wildlife habitat depends on the management of existing plant communities, but some potential depends on growing desirable vegetation.

Increased population growth has resulted in increased homesite construction on this soil. The main limitations for urban development are the seasonal water table, slow permeability, and a fragipan at a depth of 20 to 30 inches. Dwellings and roads must be designed to offset these limitations. Excavation during summer is difficult because of the strongly compacted fragipan. A seasonal water table is perched on top of the fragipan and requires drainage for best results with basements and crawl spaces. Septic tank absorption fields do not function properly during rainy periods because of wetness and slow permeability. Drainage is required for best results with lawn grasses, shade trees, ornamental trees, shrubs, vines, and vegetables, and irrigation during summer is desirable. Recreational uses are limited by the seasonal high water table. Plants that tolerate droughty conditions should be selected if irrigation is not provided.

This soil is in capability subclass IIIw.

➤ **7C—Cascade silt loam, 8 to 15 percent slopes.** This somewhat poorly drained soil is on convex side slopes of broad, rolling ridgetops. This soil formed in silty materials. Elevation is 250 to 1,400 feet. The average annual precipitation is 50 to 60 inches, the average annual air temperature is 50 to 54 degrees F, and the frost-free period is 165 to 210 days.

Typically, the surface layer is dark brown silt loam about 8 inches thick. The subsoil is dark brown silt loam about 19 inches thick. The substratum is a dark brown, mottled, silt loam fragipan to a depth of 60 inches or more.

Included with this soil in mapping are areas of Goble and Cornelius soils and other Cascade soils. The includ-

ed soils make up as much as 10 percent of this unit. Also included in Tps. 1 N. and 1 S., R. 1 E., are areas of Cascade soils, but in places these soils have basalt bedrock at a depth of 40 to 60 inches.

Permeability is slow. Effective rooting depth is 20 to 30 inches. Available water capacity is 5 to 7.5 inches. Water-supplying capacity is 17 to 19 inches. Runoff is medium, and the hazard of erosion is moderate. A water table is at a depth of 18 to 30 inches from December through April.

➤ This soil is used for farming, timber production, urban development, and wildlife habitat.

➤ This soil is suited to farming. If this soil is drained, most climatically adapted crops do well. The major crops are grain, berries, vegetables, nursery stock, hay, and pasture. Irrigation during summer is required for maximum production of most crops. Returning all crop residue to the soil and including grasses, legumes, or grass-legume mixtures in the cropping system help maintain fertility and tilth. If the soil is to be left bare during winter, it should be fertilized and planted to a cover crop in fall. Grassed waterways help control erosion in drainageways. Limiting tillage to seedbed preparation and weed control helps to control runoff and erosion. A cloddy condition helps protect the soil from erosion during rainy periods.

Excessive cultivation can result in formation of a tillage pan in this soil. Subsoiling is required to break up this pan and is more successful if done when the soil is dry than when wet.

The soil has a perched water table in winter and early in spring. Tile systems are difficult to install because of shallow depth to the hardpan. Tile systems are installed across the slope to intercept ground water. Subsoiling should be across the tile lines. Sprinkler irrigation can be used to increase crop production in dry periods in summer. Water needs to be applied slowly to prevent runoff. Grain and grass crops respond to nitrogen. Legumes respond to phosphorus, potassium, sulfur, and lime and in places, to boron. Berries respond to nitrogen, phosphorus, potassium, and sulfur and in places, to boron.

The vegetation in areas not cultivated is Douglas-fir, western redcedar, red alder, grand fir, western hemlock, bigleaf maple, willow, Pacific dogwood, wild cherry, western hazel, thimbleberry, salal, vine maple, trailing blackberry, Cascade Oregon-grape, swordfern, common snowberry, roses, forbs, and grasses.

This soil is suited to Douglas-fir. The site index for Douglas-fir on this soil ranges from 150 to 165. Based on a site index of 157, this soil is capable of producing about 10,720 cubic feet from a fully stocked stand of 70-year old trees, or 63,280 board feet (international rule, one-fourth inch kerf) of merchantable timber from a fully stocked stand of 80-year old trees. Brushy species, including salal, Cascade Oregon-grape, and common snowberry, restrict natural regeneration of Douglas-fir.

The main limitations to timber production are the slowly permeable fragipan at a depth of 20 to 30 inches

and the resultant perched water table from December through April. Some windthrow of trees is possible because of restricted rooting depth. When the soil is wet, the use of some conventional logging methods is limited. Roads and landings can be protected from erosion by constructing water bars and by seeding cuts and fills. All-season roads on this soil need a heavy base of rock.

This soil is along a fringe area that is transitional from valley to forested hills. Openland and woodland are almost equal in extent. A wide variety of grain and grasses along with shrubs and trees furnish good food and cover for wildlife.

Resident and seasonal wildlife in areas of this soil include black-tailed deer, Roosevelt elk, black bear, coyote, bobcat, raccoon, skunks, foxes, opossum, rabbits, squirrels, mice, moles, and gophers. Common birds are hawks, owls, jays, ravens, crows, vultures, woodpeckers, insect eaters, mourning dove, band-tailed pigeon, ruffed grouse, blue grouse, mountain quail, California quail, ring-necked pheasant, and many kinds of small birds. Potential is good for building ponds for fish and wildlife on this soil. Ponds have been built, and fish production is generally good in these ponds. Most of the potential for wildlife habitat depends on the management of existing plant communities, but some potential depends on growing desirable vegetation.

Increased population growth has resulted in increased homesite construction on this soil (fig. 6). The main limitations for urban development are the seasonal high water table, slow permeability, low strength, a fragipan at a depth of 20 to 30 inches, and slopes of 8 to 15 percent. Dwellings and roads need to be designed to offset these limitations. Excavating during summer is difficult because of the strongly compacted fragipan. A seasonal water table is perched on top of the fragipan and requires drainage for best results with basements and crawl spaces. Septic tank absorption fields do not function properly during rainy periods because of wetness and slow permeability. Drainage is required for best results with lawn grasses, shade trees, ornamental trees, shrubs, vines, and vegetables, and irrigation during summer is desirable. Recreational uses are limited by slope and a seasonal high water table. Plants that tolerate droughty conditions should be selected if irrigation is not provided.

* This soil is in capability subclass IIIe.

→ **7D—Cascade silt loam, 15 to 30 percent slopes.** This somewhat poorly drained soil is on convex side slopes of broad, rolling ridgetops. This soil formed in silty materials. Elevation is 250 to 1,400 feet. The average annual precipitation is 50 to 60 inches, the average annual air temperature is 50 to 54 degrees F, and the frost-free period is 165 to 210 days.

Typically, the surface layer is dark brown silt loam about 8 inches thick. The subsoil is dark brown silt loam about 19 inches thick. The substratum is a dark brown,

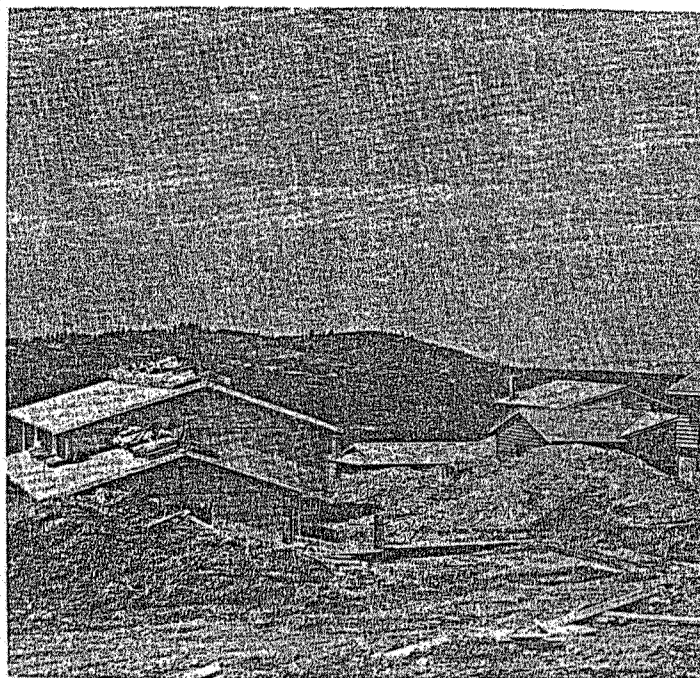


Figure 6.—Homesites on Cascade silt loam.

mottled, silt loam fragipan to a depth of 60 inches or more.

Included with this soil in mapping are areas of Goble and Cornelius soils and other Cascade soils. The included soils make up as much as 15 percent of this map unit. Also included in Tps. 1 N. and 1 S., R. 1E., are areas of Cascade soils, but in places these soils have basalt bedrock at a depth of 40 to 60 inches.

Permeability is slow. Effective rooting depth is 20 to 30 inches. Available water capacity is 5 to 7.5 inches. Water-supplying capacity is 17 to 19 inches. Runoff is medium, and the hazard of erosion is high. A water table is at a depth of 18 to 30 inches from December through April.

→ This soil is used for farming, timber production, urban development, and wildlife habitat.

The native vegetation is Douglas-fir, western redcedar, red alder, grand fir, western hemlock, bigleaf maple, willow, Pacific dogwood, wild cherry, western hazel, thimbleberry, salal, vine maple, trailing blackberry, Cascade Oregon-grape, roses, swordfern, common snowberry, forbs, and grasses.

This soil is suited to Douglas-fir. The site index for Douglas-fir on this soil ranges from 150 to 165. Based on a site index of 157, this soil is capable of producing about 10,720 cubic feet from a fully stocked stand of 70-year old trees, or 63,280 board feet (international rule, one-fourth inch kerf) of merchantable timber from a fully stocked stand of 80-year old trees. Brushy species, in-

cluding salal, Cascade Oregon-grape, and common snowberry, restrict natural regeneration of Douglas-fir.

The main limitations for timber production are the slowly permeable fragipan at a depth of 20 to 30 inches and the resultant perched water table from December through April. Some windthrow of trees is possible because of the restricted rooting depth. When the soil is wet, the use of some conventional logging methods is limited. Roads and landings can be protected from erosion by constructing water bars and by seeding cuts and fills. All-season roads on this soil need a heavy base of rock.

➤ This soil is poorly suited to farming. If this soil is drained, most climatically adapted crops do well. The major crops are grain, hay, and pasture. Irrigation during summer is required for maximum production of most crops. Returning all crop residue to the soil and including grasses, legumes, or grass-legume mixtures in the cropping system help maintain fertility and tilth. Tilling and planting across the slope help reduce runoff and erosion. If the soil is to be left bare over winter, it should be fertilized and planted to a cover crop in fall. Grassed waterways help control erosion in drainageways. Limiting tillage to seedbed preparation and weed control helps control runoff and erosion. A cloddy condition helps protect the soil from erosion during rainy periods.

Excessive cultivation can result in the formation of a tillage pan in this soil. Subsoiling is required to break up this pan and is more successful if done when the soil is dry than when wet. The soil has a perched water table in winter and early in spring. Tile systems are difficult to install because of shallow depth to the hardpan. Tile systems are installed across the slope to intercept ground water. Subsoiling should be across the tile lines. Sprinkler irrigation can be used to increase crop production in dry periods in summer. Water needs to be applied slowly to prevent runoff. Grain and grass crops respond to nitrogen. Legumes respond to phosphorus, potassium, sulfur, and lime and in places, to boron. Berries respond to nitrogen, phosphorus, potassium, and sulfur and in places, to boron.

This soil is along a fringe area that is transitional from valley to forested hills. Openland and woodland are almost equal in extent. A wide variety of grain and grasses along with shrubs and trees furnishes good food and cover for wildlife.

Resident and seasonal wildlife in areas of this soil, include black-tailed deer, Roosevelt elk, black bear, coyote, bobcat, raccoon, skunks, foxes, opossum, rabbits, squirrels, mice, moles, and gophers. Common birds are hawks, owls, jays, ravens, crows, vultures, woodpeckers, insect eaters, mourning dove, band-tailed pigeon, ruffed grouse, blue grouse, mountain quail, California quail, ring-necked pheasant, and many kinds of small birds. Most of the potential for wildlife habitat depends on the management of existing plant communities, but some potential depends on growing desirable vegetation.

Increased population growth has resulted in increased homesite construction on this soil. The main limitations for urban development are a seasonal high water table, slow permeability, low strength, a fragipan at a depth of 20 to 30 inches, and slopes of 15 to 30 percent. Dwellings and roads need to be designed to offset these limitations. Excavating during summer is difficult because of the strongly compacted fragipan. Slumping is possible in areas of cut and fill, and additional maintenance is required for banks, roads, and building foundations. A seasonal water table is perched on top of the fragipan and requires drainage for best results with basements and crawl spaces. Septic tank absorption fields do not function properly during rainy periods because of wetness, steep slopes, and slow permeability. Drainage is required for best results with lawn grasses, shade trees, ornamental trees, shrubs, vines, and vegetables, and irrigation during summer is desirable. Recreational uses are limited by the seasonal high water table. Plants that tolerate droughty conditions should be selected if irrigation is not provided.

*This soil is in capability subclass IVe.

7E—Cascade silt loam, 30 to 60 percent slopes.

This steep, somewhat poorly drained soil is on side slopes of broad, rolling ridgetops. This soil formed in silty materials. Elevation is 250 to 1,400 feet. The average annual precipitation is 50 to 60 inches, the average annual air temperature is 50 to 54 degrees F, and the frost-free period is 165 to 210 days.

Typically, the surface layer is dark brown silt loam about 8 inches thick. The subsoil is dark brown silt loam about 19 inches thick. The substratum is a dark brown, mottled, silt loam fragipan to a depth of 60 inches or more.

Included with this soil in mapping are areas of Goble, Cornelius, Saum, and Wauld soils and other Cascade soils. The included soils make up as much as 15 percent of this unit. Also included in Tps. 1 N. and 1 S., R 1 E., are areas of Cascade soils, but in places these soils have basalt bedrock at a depth of 40 to 60 inches.

Permeability is slow. Effective rooting depth is 20 to 30 inches. Available water capacity is 5 to 7.5 inches. Water-supplying capacity is 17 to 19 inches. Runoff is rapid, and the hazard of erosion is high. A water table is at a depth of 18 to 30 inches from December through April.

This soil is used for timber production, urban development, and wildlife habitat.

The native vegetation is Douglas-fir, western redcedar, red alder, grand fir, western hemlock, bigleaf maple, willow, Pacific dogwood, wild cherry, western hazel, thimbleberry, salal, vine maple, trailing blackberry, Cascade Oregon-grape, roses, swordfern, common snowberry, forbs, and grasses.

This soil is suited to Douglas-fir. The site index for Douglas-fir on this soil ranges from 150 to 165. Based on a site index of 157, this soil is capable of producing

Soil Unit Symbols and Names; Productivity Ratings and Classifications for Douglas Fir Yields

Symbol	Soil Unit Name	Cubic Foot (CF) Site Class	Potential Yield, CF/Acre	Site Class (Plan Policies)	Site Index #
3D	Aschoff cobbly loam, 5-30% slopes	3	120-140	III	130-150
3E	Aschoff cobbly loam, 30-60% slopes	3	130-145	III	140-155
3F	Aschoff cobbly loam, 60-80% slopes	3/2	140-164	II	150-165
4F	Aschoff-rock outcrop-Wahkenna association, very steep	3/2	140-164	II	150-165
5B	Bull Run silt loam, 3-8% slopes	3/2	145-170	II	155-175
5C	Bull Run silt loam, 8-15% slopes	3/2	145-170	II	155-175
5D	Bull Run silt loam, 15-30% slopes	3/2	145-170	II	155-175
5E	Bull Run silt loam, 30-60% slopes	3/2	145-170	II	155-175
5F	Bull Run silt loam, 60-88% slopes	3/2	145-170	II	155-175
7B	Cascade silt loam, 3-8% slopes	3/2	140-164	II	150-165
→ 7C	Cascade silt loam, 8-15% slopes	3/2	140-164	II	150-165
→ 7D	Cascade silt loam, 15-30% slopes	3/2	140-164	II	150-165
7E	Cascade silt loam, 30-60% slopes	3/2	140-164	II	150-165
9B	Cazadero silty clay loam, 0-8% slopes	3/2	145-165	II	155-172
9C	Cazadero silty clay loam, 8-15% slopes	3/2	145-165	II	155-172
9D	Cazadero silty clay loam, 15-30% slopes	3/2	145-165	II	155-172
9E	Cazadero silty clay loam, 30-60% slopes	3/2	145-165	II	155-172
10B	Cornelius silt loam, 3-8% slopes	3/2	150-165	II	160-170
10C	Cornelius silt loam, 8-15% slopes	3/2	150-165	II	160-170
10D	Cornelius silt loam, 15-30% slopes	3/2	150-165	II	160-170
17C	Goble silt loam, 3-15% slopes	3	135-145	III	145-155
17D	Goble silt loam, 15-30% slopes	3	135-145	III	145-155
→ 17E	Goble silt loam, 30-60% slopes	3	135-145	III	145-155
20C	Haplumbrepts, moderately steep	4/3	100-125	III	120-135
20F	Haplumbrepts, very steep	4/3	100-125	III	120-135
22D	Kinzel-Divers-Goodlow association, moderately steep	4/3	85-120	IV	110-125
22E	Kinzel-Divers-Goodlow association, steep	4/3	85-120	IV	110-125
23F	Kinzel-Lastance-Rubble land association, very steep	4/3	85-120	IV	110-125
27B	Mershon silt loam, 0-8% slopes	4/3	100-125	III	120-135
27C	Mershon silt loam, 8-15% slopes	4/3	100-125	III	120-135
27D	Mershon silt loam, 15-30% slopes	4/3	100-125	III	120-135
43C	Saum silt loam, 8-15% slopes	3	120-130	III	130-140
43E	Saum silt loam, 30-60% slopes	3	120-130	III	130-140
56E	Wauld very gravelly loam, 30-70% slopes	3	120-135	III	130-145
58D	Zygore gravelly loam, 5-30% slopes	3/2	150-165	II	160-170
58E	Zygore gravelly loam, 30-60% slopes	3/2	150-165	II	160-170
59F	Zygore-Rock outcrop complex, 60-90% slopes	3/2	150-165	II	160-170

EXHIBIT

5 14.03.2021

OREGON AGRICULTURE: FACTS and FIGURES

The value of Oregon's agricultural 2000 production totaled over \$3.5 billion, up slightly from 1999. Oregon agriculture's slight increase reflects increasing returns for several commodities, but lower prices for others. More than 220 different commodities can be found throughout the State.



Information furnished by the

*Oregon Agricultural Statistics Service
Homer K. Rowley, State Statistician
and
Oregon State University Extension Service.*

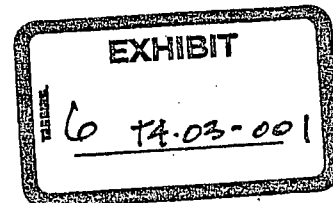
April 2001

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*ODA Website:
<http://www.oda.state.or.us>*

***In compliance with the Americans with disabilities act, this publication will be made
available in alternate formats upon request.***

Hearing impaired: 503-986-4762



OREGON FARMS2000

Number of farms	40,000
Land in farms (acres)	17,200,000
Average farm size (acres)	430
Value per acre (dollars) 1/	\$1,020

1/ January 1, 2000

OPERATIONS BY SIZE

Size of Operation (Acres)	Farms % of Total
1-9	21.2
10-49	35.1
50-179	20.9
180-499	9.9
500-999	4.7
1000-1999	3.0
2000 or more	5.2

OPERATIONS BY TYPE OPERATIONS BY TENURE

	%		%
Individual	85.1	Full owners	72.0
Partnership	7.4	Part owners	20.1
Incorporated	6.4	Tenants	7.9
Other	1.1		

OPERATIONS BY AGE GROUP

Age of Operator	% of Operations
Under 25	0.5
25-34	4.4
35-44	19.4
45-54	28.6
55-64	23.4
65 and over	23.7
Average Age = 54.5	

T4-03-001 Vicinity
2002 Aerial Photo

Tax Lots

Contours

Existing
Zone Boundary

Proposed
Zone Boundary

CFU-2
SEC-h

EFU
SEC-h

EXHIBIT

7 T4-03-001

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. _____

Amending the Multnomah County West Hills Rural Area Plan Map And Sectional Zoning Map To Change The Plan And Zoning Designation Of A 9.29 Acre Property From Exclusive Farm Use (EFU) To Commercial Forest Use (CFU-2).

The Multnomah County Board of Commissioners Finds:

a. On August 4, 2003, the Multnomah County Planning Commission conducted a public hearing as provided for in Multnomah County Code Chapter 37.0530, with respect to an application to change the zoning designation of a 9.29 acre property (property) from EFU to CFU-2. The property is described in Sections 1 and 2 below and is depicted on the Vicinity Map included with the Notice of Public Hearing attached as Exhibit A.

b. By Resolution T4-03-001 attached as Exhibit B, the Planning Commission recommends revisions to the plan and maps changing the property designation from EFU to CFU-2 based on the findings in the July 25, 2003 staff report.

c. The Comprehensive Plan Map designation of the property was last amended in Ordinance 868, as part of the West Hills Rural Area Plan that was adopted in October of 1996. That plan designated the property as EFU, Exclusive Farm Use.

d. The Zoning Map designating the property as EFU was adopted in Ordinance 238 in August of 1980, and is shown on sectional zoning map number 90.

e. The property also contains the Significant Environmental Concern (SEC) overlay zone that was approved through Ordinance 830 in October of 1995. The Board is not changing this overlay zone by this action.

The Multnomah County Board of Commissioners Ordains as Follows:

Section 1. The Multnomah County West Hills Rural Area Plan Map adopted by Ordinance 868 is amended to designate the property designated as 1N1W06A -00300 as Commercial Forest Use (CFU-2) as depicted in Exhibit C.

Section 2. Amendment to the sectional zoning map number 90 that was adopted in ordinance 238, changing the zoning of the property designated as 1N1W06A -00300 from Exclusive Farm Use (EFU) to Commercial Forest Use (CFU-2) as depicted on Exhibit D. The Significant Environmental Concern (SEC) overlay zone is not affected by this approval.

FIRST READING:

September 18, 2003

SECOND READING:

September 25, 2003

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By *Sandra N. Duffy*
Sandra N. Duffy, Assistant County Attorney



**MULTNOMAH COUNTY
LAND USE PLANNING DIVISION**
1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
http://www.co.multnomah.or.us/dbcs/LUT/land_use

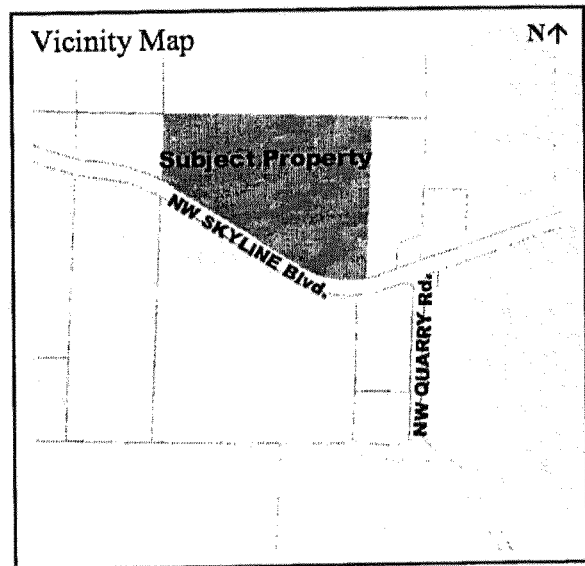
NOTICE OF PUBLIC HEARING

This notice concerns a public hearing scheduled to consider the land use case(s) cited and described below.

Case File: T4-03-001

Scheduled Before: the Multnomah County Planning Commission

The hearing is to be held on Monday, August 4, 2003, at the Planning Commission Hearing that starts at 6:30 P.M., in Room 100 of the Multnomah County Building located at 501 SE Hawthorne Blvd., Portland OR



Proposal: A request for a Comprehensive Plan map and Zoning Map amendment of the West Hills Rural Area Plan to change the designation of a 9.29 acre property from Exclusive Farm Use (EFU) to Commercial Forest Use (CFU-2).

Location: 11410 NW Skyline Blvd.
1N1W06A -00300
Tax Account #R961060590

Applicant: Phil Werner
4032 SE Ozark Ct.
Hillsboro, OR 97123

Owner: Paul and Bonnie Gill
9575 N. Tyler
Portland, OR 97203

Public Participation and Hearing Process: A copy of the application and all evidence submitted in support of the application is available for inspection, at no cost, at the Land Use Planning Division office during normal business hours. A staff report will be available for inspection 7 days prior to the hearing, also at no cost. Copies of all documents may be purchased at the rate of 30-cents per page. For further information on this case, contact Chuck Beasley, Staff Planner at 503-988-3043.

All interested parties may appear and testify or submit written comment on the proposal at or prior to the hearing. Comments should be directed toward approval criteria applicable to the request. The hearing procedure will follow the *Rules of Procedure* and will be explained at the hearing.

The Planning Commission will proceed under the provisions of MCC 37.0530(D), by either making a recommendation of approval to the Board of County Commissioners, or by voting to deny the request. If the request is denied, any person who appeared before the Planning Commission in person or in writing may appeal the decision to the Board of Commissioners. If no appeal is filed, the Planning Commission denial is final at the close of the 14 day appeal period. The Board of Commissioners will conduct a public hearing on either a recommendation of approval or an appeal of a Planning Commission denial. A decision by the Board of Commissioners is the County's final decision, and may be appealed to the Land Use Board of Appeals.

Failure to raise an issue before the close of the public record in sufficient detail to afford the County and all parties an opportunity to respond may preclude appeal on that issue to the Land Use Board of Appeals.

Applicable Approval Criteria: Multnomah County Code (MCC): 37.0705(A) Quasi-judicial Plan Revision, and (B) Quasi-Judicial Zone Change, and Framework Plan Policies 9, and 11.

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at http://www.co.multnomah.or.us/dbcs/LUT/land_use.

Notice to Mortgagee, Lien Holder, Vendor, or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

**DECISION OF THE
MULTNOMAH COUNTY PLANNING COMMISSION**

In the matter of recommending that the Board of)
Commissioners approve the request for a)
Comprehensive Plan Map and Zoning Map)
amendment of the West Hills Rural Area Plan to)
change the plan and zoning designation of a 9.29)
acre property from Exclusive Farm Use (EFU) to)
Commercial Forest Use (CFU-2).)

RESOLUTION

T4-03-001

WHEREAS, The Planning Commission is authorized by Multnomah County Code Chapter 33.0140 to recommend to the Board of County Commissioners the adoption, revision, or repeal of portions of a comprehensive plan and zoning ordinances intended to carry out part or all of a plan adopted by the Board; and

WHEREAS, This request includes both a comprehensive plan amendment and a zoning map amendment to the West Hills Rural Area Plan and is therefore properly before the Planning Commission; and

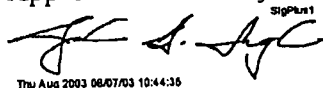
WHEREAS, The Planning Commission conducted a public hearing and heard public testimony on August 4, 2003 as is provided for in Multnomah County Code Chapter 37.0530, in keeping with the notification procedures therein; and

WHEREAS, The applicant requesting the change has met the burden to persuade that the Quasi-judicial Plan and Zone Change criteria are met with the request, in particular showing that the parcel does not contain the features in Framework Plan Policy 9 that the county uses to define agricultural land, and that it does contain features that are consistent with Policy 11 Commercial Forest Land; and

WHEREAS, The Planning Commission finds that it is in the public interest for land to be zoned consistently with the Framework Plan policies;

NOW, THEREFORE BE IT RESOLVED that the Planning Commission concurs with the findings of the staff report and therefore recommends adoption of the proposed plan and zone change by the Board of County Commissioners.

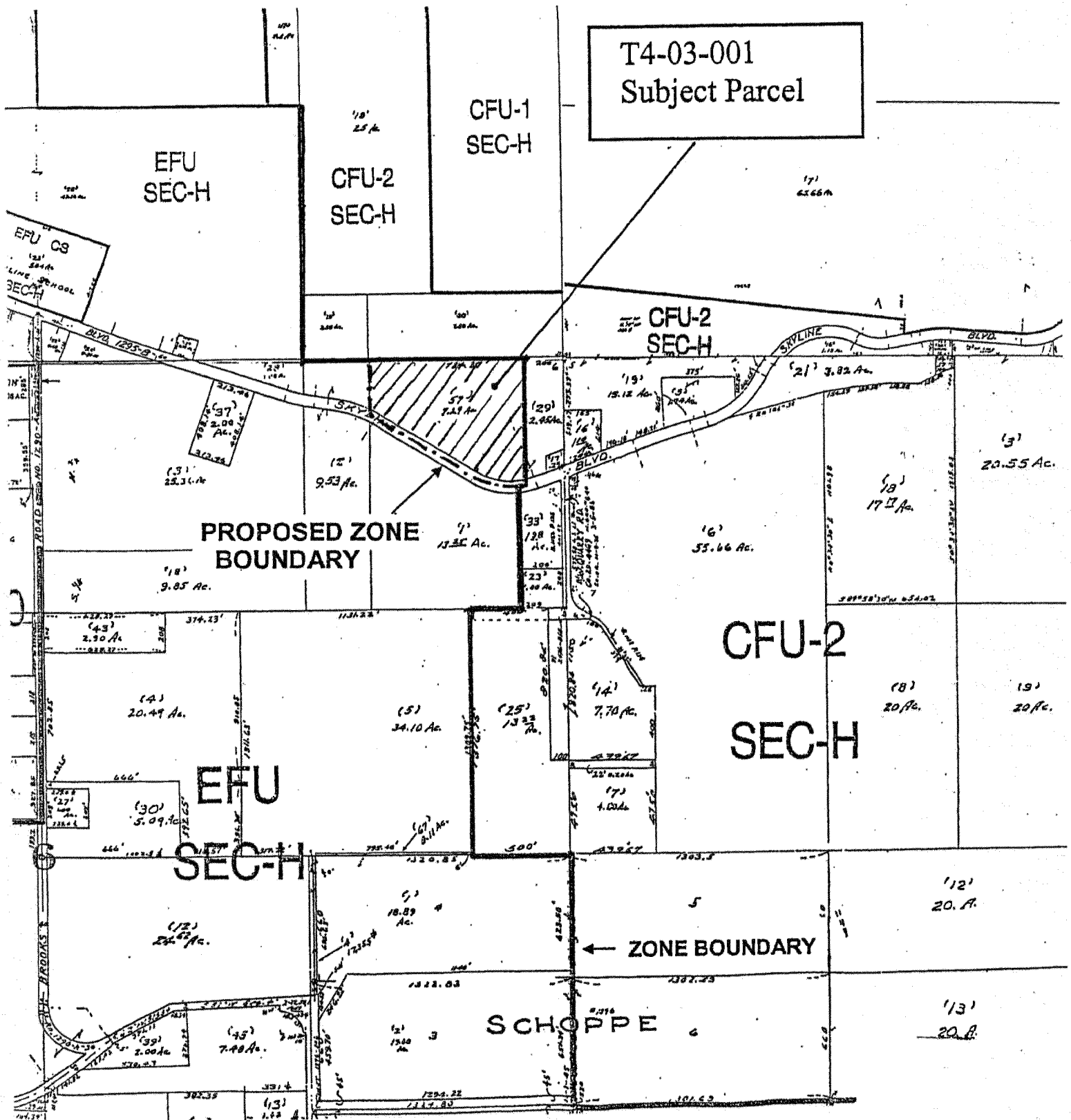
Approved this 4th day of August, 2003

 Signature

Thu Aug 2003 06:07/03 10:44:36

John Ingle, Chair
Multnomah County Planning Commission

Exhibit D. Ordinance No. _____



Board of Commissioners Script for Quasi-Judicial Public Hearings

Chair: This is the time set for public hearing on application number for T 4-03-001. I am Diane Linn, Chair of the Multnomah County Board of Commissioners. Also in attendance are Commissioners _____ (name each Commissioner).

This is a quasi-judicial proceeding, our duty is to apply the law, not revise it. This is also a de novo hearing which means that it is an evidentiary hearing and all issues relevant to the approval criteria may be submitted and will be considered in this hearing. The evidence may be in any form -such as testimony, letters, petitions, slides, photographs, maps, drawings or other items. The applicant in this case carries the burden of persuasion, that all applicable approval criteria have been met. Our duty is to determine whether the applicant has carried that burden.

The Commission will base its decision on the evidence presented, along with everything in the county's file to date. The Board of Commissioners decision is the County's final decision and is appealable to the Land Use Board of Appeals within 21 days of when the signed Board order is mailed.

I also must make a statement to the applicant that the failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow this Commission to respond to the issue precludes an action for damages in circuit court.

GUIDELINES: I would like to announce several procedural guidelines for those presenting testimony and participating in the hearing. The guidelines are established by the zoning code and state law and are as follows:

1. Any testimony and evidence you present must be directed toward the applicable approval criteria or other criteria in the County's comprehensive plan or zoning code which applies to the decision.

This is a summary of the approval criteria for the Plan Amendment and Zone Change from an Exclusive Farm Use (EFU) designation to a Commercial Forest Use (CFU-2) designation.

- The change is consistent with the standards of ORS 197.732 if a goal exception is required (including any adopted OAR's).
- The proposal conforms to the intent of the relevant policies in the County Comprehensive Plan, specifically Policies 9 and 11 for farm and forest lands.
- The uses allowed by the proposed changes will not destabilize the land use pattern in the area, conflict with existing or planned uses on adjacent lands, or occur in an area where necessary public services are not available.
- The request is in the public interest and there is a public need for the change that is best served by amending the plan designation.

- Changes to the area since the initial plan and zone designation was put in place or evidence that the initial plan designation was a mistake may also be considered.

2. Before the closing of this hearing, any participant may ask for an opportunity to present additional evidence, arguments or testimony regarding this application. If this request is made, the Commission will set a date and time certain for deliberation and a decision on the application. In advance of this date, the record will be kept open for at least 7 days to provide an opportunity to submit additional evidence, followed by an additional 7 days for parties to respond to that new evidence. If the record is opened for admission of new evidence, new issues may be raised relating to that new evidence. After the record is closed to all parties, the applicant will have 7 days to submit final written arguments, in accordance with state law. All testimony submitted during the open record period and the applicant's final written arguments shall be sent to the Land Use Planning office for distribution to the Commission members.

3. Failure to raise an issue with sufficient clarity to give the Commission and the parties an opportunity to respond to the issue will preclude appeal to the Land Use Board of Appeals (LUBA) *on* that issue.

DISCLOSURES: [Any ex parte contacts or conflicts of interest should be disclosed at this time]. I have no ex parte contacts or conflicts of interest to disclose. Commissioner Rojo de Steffey? Commissioner Naito? Commission Cruz? Commission Roberts? [If there are *none*, that should be stated on the record.]

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

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

Have any of the Commissioner's been on a site visit to the subject property? [Such disclosures should include the time and date of the visit, what he/she observed, who (if anyone) the Commissioner talked to at the site and any other relevant facts or observations obtained as a result of the site visit. Then hearing participants should be invited to rebut any facts adduced in the disclosure.]

CONDUCT OF THE HEARING:

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

1. Staff report
2. Appellant
3. Proponents/Supporters of the application
4. Opponents of the application
6. Rebuttal by the applicant if necessary
7. Commission discussion, questions, deliberation
8. Future scheduling if necessary

HOW TO PRESENT TESTIMONY:

There are public testimony forms at the back of the room and should be filled out by anyone wishing to testify. The cards should be given to the Board Clerk.

1. State your name and address
2. If you can, identify the criteria to which your testimony is directed, by stating the section of the zoning ordinance, comprehensive plan, state statute or other legal authority to which your evidence or arguments are directed.
3. Avoid repetitive testimony
4. During the hearing, I ask those in the audience to refrain from demonstrations in support or opposition.

#1

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

*****This form is a public record*****

MEETING DATE: 9-18-03

SUBJECT: EFU - to CFU-2 R-2

AGENDA NUMBER OR TOPIC: TH-03-001

FOR: _____ AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Scott Rosenlund

ADDRESS: 5900 NW Cornell

CITY/STATE/ZIP: PDX 97210

PHONE: _____ DAYS: 203-1444

EVES: -

EMAIL: _____

FAX: _____

SPECIFIC ISSUE: _____

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

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

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

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

DID NOT SPEAK

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 9/18/03

SUBJECT: R-2

AGENDA NUMBER OR TOPIC: Zone Change

FOR: X AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Phil Werner

ADDRESS: 4032 SE OZARK CT

CITY/STATE/ZIP: Hills OR 97123

PHONE: DAYS (503) 320-0869 EVES: (503) 640-4335

EMAIL: _____ FAX: _____

★ SPECIFIC ISSUE: To answer any questions the board might have

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

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

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

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

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: September 18, 2003

Agenda Item #: R-3

Est. Start Time: 10:10 AM

Date Submitted: 08/29/03

Requested Date: September 18, 2003

Time Requested: 10 minutes

Department: Business and Community Services

Division: Land Use & Trans

Contact/s: Joe Ramirez

Phone: (503) 988-5050 **Ext.:** 29633

I/O Address: 455/2

Presenters: Joe Ramirez and Mike Phillips

Agenda Title: Approval of a Resolution to Authorize Condemnation and Immediate Possession of Real Property Necessary for the Purpose of Maintaining and Operating NW Miller Road

(NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide clearly written title.)

1. What action are you requesting from the Board? What is the department/agency recommendation?

The Land Use Planning and Transportation Program seeks the Board's authorization to initiate condemnation proceedings if settlement negotiations are unsuccessful against the property as described in the Exhibits attached to the proposed Resolution. Further, the LUTP requests the Board to authorize County legal counsel to obtain immediate possession of this property which was used for time sensitive repairs to the right of way and is necessary for the continued use by the County for the operation and maintenance of NW Miller Road. The repairs were completed in the Spring of this year.

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

The repairs were necessary because of a road slide occurring on NW Miller Road above a deteriorating metal culvert conveying storm runoff from adjacent properties and utility trenches. Since repairs had to be done on private property, a temporary right-of-entry

agreement was negotiated with the property owner. This agreement allowed the County to complete the repairs and to settle the property negotiations at a later date.

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

The County is primarily responsible for the costs for this property acquisition. Right-of-way (ROW) acquisition is included as part of the road repair project budget. The County has informed the landowner that condemnation actions would be taken if the initial agreed to process failed and stated a condemnation action would be commenced by October 1, 2003.

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

If a budget modification, explain: N.A.

- ❖ What revenue is being changed and why?
- ❖ What budgets are increased/decreased?
- ❖ What do the changes accomplish?
- ❖ Do any personnel actions result from this budget modification? Explain.
- ❖ Is the revenue one-time-only in nature?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?

NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)

If a contingency request, explain: N.A.

- ❖ Why was the expenditure not included in the annual budget process?
- ❖ What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?
- ❖ Why are no other department/agency fund sources available?
- ❖ Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.
- ❖ Has this request been made before? When? What was the outcome?

If grant application/notice of intent, explain: N.A.

- ❖ Who is the granting agency?
- ❖ Specify grant requirements and goals.
- ❖ Explain grant funding detail – is this a one time only or long term commitment?
- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

4. Explain any legal and/or policy issues.

Under State and Federal Law the County has the condemnation authority to acquire property for public road purposes. Immediate possession of such is authorized by ORS

Chapter 35, which provides for the deposit of funds into court to cover acquisition and other costs.

The road work was completed last Spring under a temporary right of entry. The County contractually agreed at that time to have settled or commenced the condemnation action by October 1, 2003. The property owner's initial response to the County's offer was not acceptable. The County Attorney is in contact with the property owner's attorneys and is attempting to settle and will continue to do so. However, in order to meet the October 1st deadline, if we do not settle, we need to have the BCC resolution in place before filing the condemnation lawsuit.

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

There was a temporary right-of-entry agreement between the property owner and the County.

Required Signatures:

A handwritten signature in cursive script that reads "M. Cecilia Johnson".

Department/Agency Director:

Date: 08/28/03

Budget Analyst

By:

Date:

Dept/Countywide HR

By:

Date:

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Authorizing Condemnation and Immediate Possession of Real Property Necessary for the Purpose of Maintaining and Operating NW Miller Road

The Multnomah County Board of Commissioners Finds:

- a. It is necessary for Multnomah County to acquire the real property described in the attached Exhibit A (the property) for the purpose of the maintaining and operating NW Miller Road, a county road
- b. The County obtained access to the property under a temporary right-of-entry agreement with the property owner, and the County completed in May of this year time sensitive repairs to the road caused by storm water runoff. The access under this temporary agreement expired on or about May 23, 2003.
- c. The above discussed road repair project and the use of the property were planned and located in a manner that is most compatible with the greatest public good and the least private injury.
- d. It is in the public interest and necessary for the County to acquire immediate possession of the property to ensure sufficient right-of-way for the maintenance and operation of NW Miller Road.

The Multnomah County Board of Commissioners Resolves:

1. It is necessary for the County to acquire the property for the purpose of maintaining and operating NW Miller Road a county road.
2. In the event that no satisfactory agreement can be reached with the owners of the property as to the purchase price, legal counsel is authorized and directed to commence and prosecute to final determination such condemnation proceedings as may be necessary to acquire the property. Such action shall be in accordance with all applicable laws, rules, and regulations governing such acquisition.
3. Upon final determination of any such proceeding, the deposit of funds and payment of judgment conveying the property to the County is authorized.
4. Legal counsel is authorized and directed to take such action in accordance with law to obtain possession of the property as soon as possible.
5. There is authorized the creation of a fund in the amount of the estimate of just compensation for the property, which shall, upon obtaining possession of the property, be

deposited with the Clerk of the Court wherein the action was commenced for the use of the defendants in the action, and the Director of the Finance Division is authorized to draw a warrant on the Road Fund of the County in such sum for deposit.

ADOPTED this 18th day of September, 2003.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:
AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Matthew O. Ryan, Assistant County Attorney

EXHIBIT A TO RESOLUTION

SLOPE AND DRAINAGE EASEMENT DESCRIPTION

A perpetual easement for the construction and maintenance of slope, drainage, sidewalk, utility, landscaping and traffic control device purposes through, over, under, along and within a certain tract of land situated in the N.W. one-quarter of Section 36, Township 1 North, Range 1 West, Willamette Meridian, Multnomah County, Oregon, being more particularly described as follows:

Commencing at a 3/4" iron pipe in monument box at the Legal Centerline Station 4+54.50 of N.W. Miller Road, County Road No. 1420; thence S6°25'28"E, a distance of 347.13 feet to a point on the easterly right-of-way line of said N.W. Miller Road, said point being the point of beginning of the tract to be described; thence S15°28'32"E, a distance of 59.37 feet; thence S15°33'44"E, a distance of 105.23 feet; thence S38°20'12"E, a distance of 50.00 feet; thence S1°28'00"E, a distance of 10.00 feet; thence S16°58'06"W, a distance of 31.62 feet; thence S49°52'25"W, a distance of 32.02 feet; thence S19°47'02"W, a distance of 96.57 feet to a point on the easterly right-of-way line of said N.W. Miller Road; thence northerly along the easterly right-of-way line of said N.W. Miller Road, N01°28'00"W, a distance of 349.67 feet to the point of beginning.

Containing 10,564 square feet, more or less.

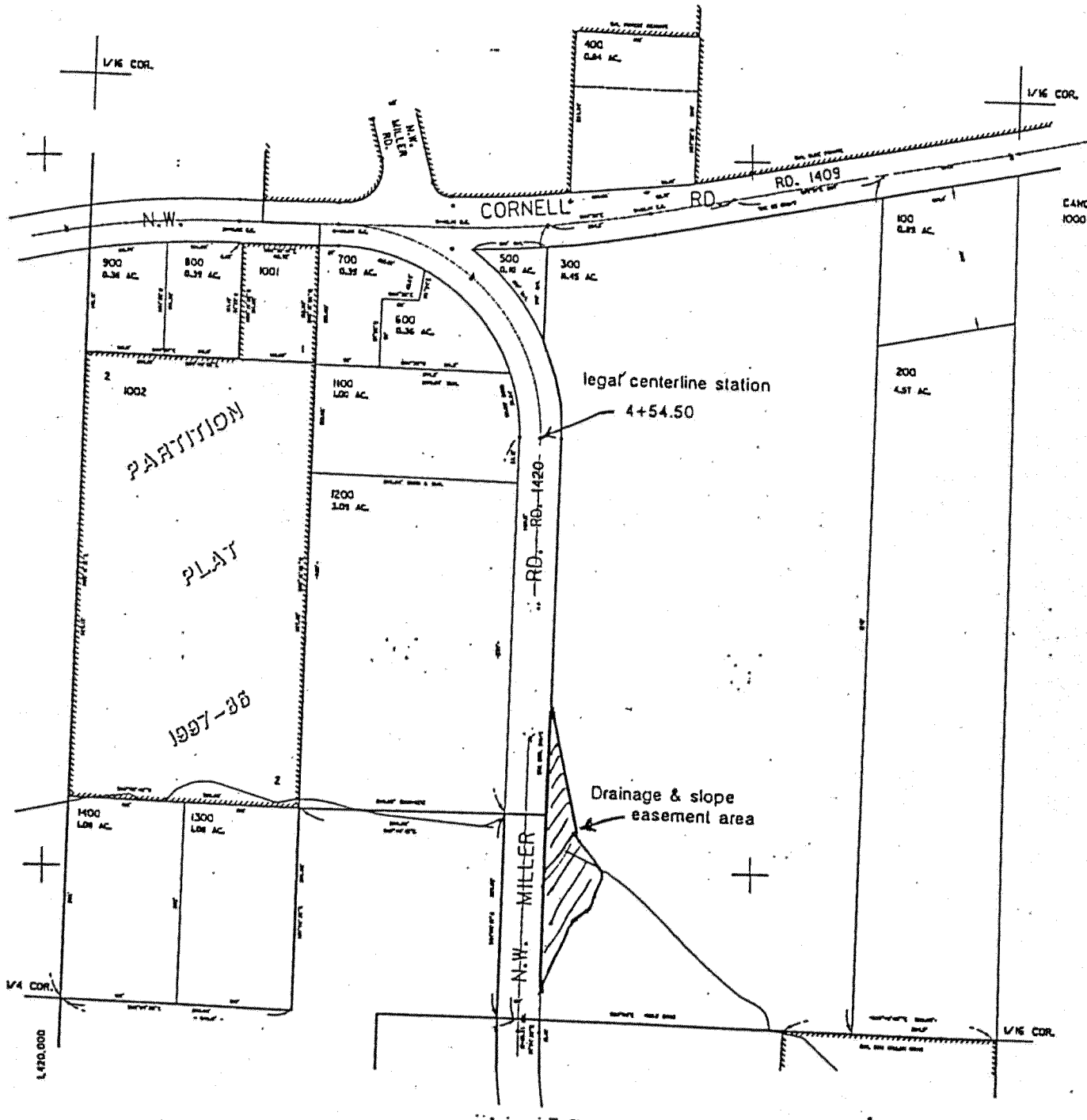
As shown on the attached EXHIBIT "A-1", herein made a part of this document. In the event of a conflict or discrepancy between the map as shown on the attached EXHIBIT "A-1" and the written legal description, the written legal description shall prevail.

EXHIBIT A-1

SW1/4 NW1/4 SEC. 36 T.1N. R.1W. W.M.
MULTNOMAH COUNTY

IN 11
PORT

WASHINGTON COUNTY



IN 1W :
PORT

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 03-131

Authorizing Condemnation and Immediate Possession of Real Property Necessary for the Purpose of Maintaining and Operating NW Miller Road

The Multnomah County Board of Commissioners Finds:

- a. It is necessary for Multnomah County to acquire the real property described in the attached Exhibit A (the property) for the purpose of the maintaining and operating NW Miller Road, a county road
- b. The County obtained access to the property under a temporary right-of-entry agreement with the property owner, and the County completed in May of this year time sensitive repairs to the road caused by storm water runoff. The access under this temporary agreement expired on or about May 23, 2003.
- c. The above discussed road repair project and the use of the property were planned and located in a manner that is most compatible with the greatest public good and the least private injury.
- d. It is in the public interest and necessary for the County to acquire immediate possession of the property to ensure sufficient right-of-way for the maintenance and operation of NW Miller Road.

The Multnomah County Board of Commissioners Resolves:

1. It is necessary for the County to acquire the property for the purpose of maintaining and operating NW Miller Road a county road.
2. In the event that no satisfactory agreement can be reached with the owners of the property as to the purchase price, legal counsel is authorized and directed to commence and prosecute to final determination such condemnation proceedings as may be necessary to acquire the property. Such action shall be in accordance with all applicable laws, rules, and regulations governing such acquisition.
3. Upon final determination of any such proceeding, the deposit of funds and payment of judgment conveying the property to the County is authorized.
4. Legal counsel is authorized and directed to take such action in accordance with law to obtain possession of the property as soon as possible.

5. There is authorized the creation of a fund in the amount of the estimate of just compensation for the property, which shall, upon obtaining possession of the property, be deposited with the Clerk of the Court wherein the action was commenced for the use of the defendants in the action, and the Director of the Finance Division is authorized to draw a warrant on the Road Fund of the County in such sum for deposit.

ADOPTED this 18th day of September, 2003.




BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Matthew O. Ryan, Assistant County Attorney

NW Miller Road
Item No 03-15

EXHIBIT A TO RESOLUTION

SLOPE AND DRAINAGE EASEMENT DESCRIPTION

A perpetual easement for the construction and maintenance of slope, drainage, sidewalk, utility, landscaping and traffic control device purposes through, over, under, along and within a certain tract of land situated in the N.W. one-quarter of Section 36, Township 1 North, Range 1 West, Willamette Meridian, Multnomah County, Oregon, being more particularly described as follows:

Commencing at a 3/4" iron pipe in monument box at the Legal Centerline Station 4+54.50 of N.W. Miller Road, County Road No. 1420; thence S6°25'28"E, a distance of 347.13 feet to a point on the easterly right-of-way line of said N.W. Miller Road, said point being the point of beginning of the tract to be described; thence S15°28'32"E, a distance of 59.37 feet; thence S15°33'44"E, a distance of 105.23 feet; thence S38°20'12"E, a distance of 50.00 feet; thence S1°28'00"E, a distance of 10.00 feet; thence S16°58'06"W, a distance of 31.62 feet; thence S49°52'25"W, a distance of 32.02 feet; thence S19°47'02"W, a distance of 96.57 feet to a point on the easterly right-of-way line of said N.W. Miller Road; thence northerly along the easterly right-of-way line of said N.W. Miller Road, N01°28'00"W, a distance of 349.67 feet to the point of beginning.

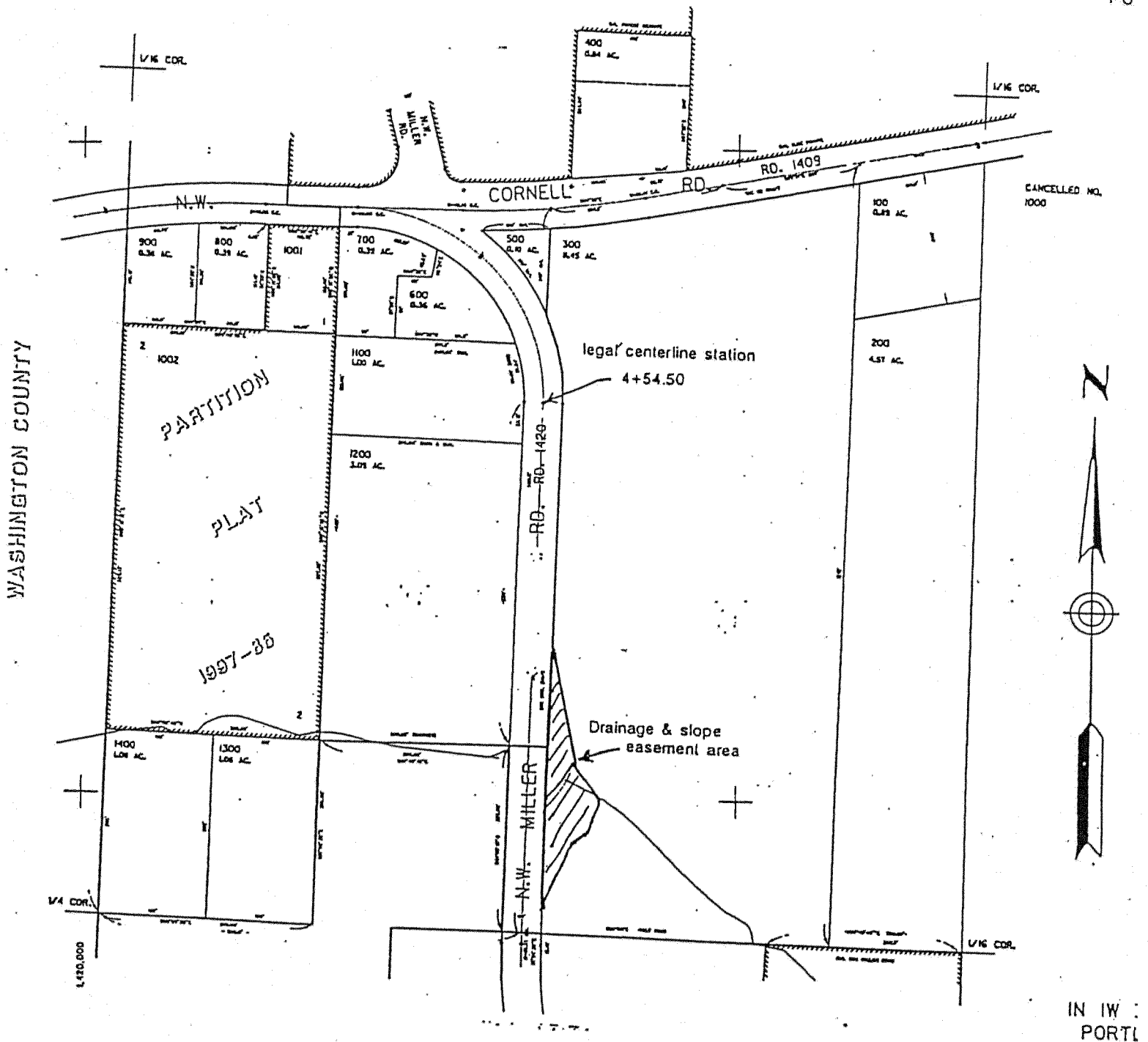
Containing 10,564 square feet, more or less.

As shown on the attached EXHIBIT "A-1", herein made a part of this document. In the event of a conflict or discrepancy between the map as shown on the attached EXHIBIT "A-1" and the written legal description, the written legal description shall prevail.

EXHIBIT A-1

SW1/4 NW1/4 SEC. 36 T.1N. R.1W. W.M.
MULTNOMAH COUNTY

IN 1
PO



AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: September 18, 2003

Agenda Item #: R-4

Est. Start Time: 10:20 AM

Date Submitted: 08/19/03

Requested Date: September 18, 2003

Time Requested: 30 minutes

Department: DBCS

Division: Facilities & Property Mgmt

Contact/s: Douglas E. Butler, Clark R. Jurgemeyer

Phone: 503.988.3322 **Ext.:** 29472 **I/O Address:** 274/FPM

Presenters: Douglas E. Butler, Clark R. Jurgemeyer, John F. Kauffman

Agenda Title: RESOLUTION Approving the Project Plan for a Major Facilities Capital Project in the Amount of \$1,875,000 as Required by Resolution 02-136 for the Combined Upgrade Project Proposed for the County-Owned Elections Building Located at 1040 SE Morrison Street, Portland

1. What action are you requesting from the Board?

The Department of Business and Community Services (DBCS), Facilities and Property Management Division requests the Board adopt this Resolution approving the Project Plan in the amount of \$ 1,875,000 because:

- a. The Combined Upgrade Project for the Elections Building consolidates several Elections Building projects in the amount of \$375,000 authorized by the Board during adoption of the 2003/2004 budget. This authorized building maintenance work combined with the new federally-funded projects will exceed one million dollars in total project cost. Therefore, the Combined Upgrade Project requires Major Facilities Capital Project (MFCP) review by the Board pursuant to Resolution 02-136;
- b. The Project Plan complies with the organization and information requirements established by Resolution 02-136;
- c. The Project Plan indicates that County funding beyond that already authorized by the Board is not anticipated at this time;
- d. The Project Plan proposes to improve the value of a County-owned Tier 1 (keep and maintain) building and the effectiveness of County operations performed therein; and
- e. The federal government will provide reimbursement through the Help America Vote Act (HAVA).

What is the department/agency recommendation?

The Department of Business and Community Services (DBCS), Facilities and Property Management Division, and Elections Division recommend adoption of this Resolution.

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

The federal government passed and funded the Help America Vote Act (HAVA) to remove barriers and hindrances to public participation in the voting process. The County budgeted money from its Americans with Disabilities Act (ADA) fund to match and supplement federal money. The County budgeted and planned Capital Projects for a new elevator and security upgrades. The County has Building Base funds for additional building safety and maintenance work. FPM proposed to consolidate those various projects totaling \$375,000 into one single remodeling project to improve construction coordination, to reduce project management costs, to lessen the impact on Elections operations, and to provide the match needed to obtain the federal funds.

FPM proposes to complete the construction remodel project prior to the November 2004 General Election. The Elections Building usually conducts up to four elections every year (March, May, September and November). There are Special Elections this September and November, as well as a Primary Election next May. We do not know whether there will be other Special Elections prior to November 2004. There is a crucial need to establish and coordinate a flexible schedule to complete the proposed construction work without interfering with any election process or the integrity of any election process.

Resolution 02-136 requires: "...The Project Plan shall contain five main components: Project Charter; Project Development Plan; Siting Plan; Operational Funding Plan; and Capital Funding Plan. The sponsoring department(s) shall develop the Siting Plan, which includes a plan for public involvement, submit the plan to the Chair for approval, and implement the Siting Plan. FPM shall consult with the sponsoring department(s) and the Finance Director in the preparation of the Project Plan. ..."

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

County funds of \$375,000 is included in the 2003/2004 adopted budget and available for the County share of the cost. Federal funds will be available. The County will work with the Oregon Secretary of State to determine the process for being reimbursed. A portion of the County share will be dedicated to the proposed construction remodeling project. Finance and Budget have reviewed the federal Help America Vote Act of 2002 and Oregon Elections Plan to implement the Act. To receive federal funding, Oregon must certify that it has established a State Election Fund that is separate and distinct from the General Fund and that it has an administrative compliant procedure for HAVA violations. This Legislation has been passed and signed by Governor Kulongoski.

Finance and Budget will monitor project expenditures and work with Elections and FPM to be reimbursed for the \$1,500,000. Finance and Budget will ensure that the approval of these funds is secure prior to beginning the major construction.

If a budget modification, explain:

The \$1,500,000 is not included in the adopted budget and will need to be added through the supplemental budget process.

If a contingency request, explain:

No Contingency Request is included or requested as part of this Resolution.

If grant application/notice of intent, explain:

No Grant Application is included or requested as part of this Resolution.

4. Explain any legal and/or policy issues.

None.

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

The Facilities and Property Management and Central Procurement and Contract Administration Divisions will submit a separate Order requesting Board approval for an exemption for Construction Manager/General Contractor (CM/GC) services. That process requires that the County place a public notice two weeks before the Multnomah County Board of County Commissioners considers the proposed Resolution approving the Project Plan and the Order requesting exemption approval. That two week public notice requirement will have been complied with prior to the September 18, 2003 Board meeting.

Required Signatures:



Department/Agency Director:

Date: 08/19/03

Budget Analyst

By: Karyne Dargan

Date: 08/15/03

Dept/Countywide HR

By: _____

Date:

BOGSTAD Deborah L

From: RAND Lisa
Sent: Tuesday, September 02, 2003 2:38 PM
To: BOGSTAD Deborah L
Cc: HATHAWAY Franna T
Subject: FW: Clarification on Agenda Placement Request for 9/18/03 Resolution Approving Project Plan for Elections Building

Hi Deb:

Hope this will do the trick. Let me know if you need anything else.

Thanks!

Lisa

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

From: SCHNAIDT Glenn
Sent: Tuesday, September 02, 2003 1:41 PM
To: RAND Lisa; LINDENTHAL John A
Cc: JURGEMEYER Clark R
Subject: RE: Clarification on Agenda Placement Request for 9/18/03 Resolution Approving Project Plan for Elections Building

Hi Lisa:

The proposed changes look fine to John and me. Please advise Deb with our thanks for catching this.

Thank you.
Glenn

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

From: RAND Lisa
Sent: Tuesday, September 02, 2003 12:13 PM
To: LINDENTHAL John A; SCHNAIDT Glenn
Subject: FW: Clarification on Agenda Placement Request for 9/18/03 Resolution Approving Project Plan for Elections Building
Importance: High

Hi John & Glen:

Please read below. Is the change okay? If not, what needs to be changed? Let me know ASAP please.

Thanks!

Lisa

9/2/2003

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

From: BOGSTAD Deborah L

Sent: Tuesday, September 02, 2003 12:02 PM

To: #AGENDA REVIEW TEAM; HATHAWAY Franna T; JURGEMEYER Clark R; THOMAS John S

Cc: RAND Lisa

Subject: Clarification on Agenda Placement Request for 9/18/03 Resolution Approving Project Plan for Elections Building

Importance: High

Facilities' response for Agenda Placement Request item 5 was very confusing. After consulting with Franna Hathaway, I propose clarifying the language from:

The Facilities and Property Management Division will submit a separate Resolution requesting an exemption for Construction Manager/General Contractor (CM/GC) services. That process requires the County place a public notice two weeks before the Multnomah County Board of County Commissioners considers the proposed Resolution.

to:

The Facilities and Property Management and Central Procurement and Contract Administration Divisions will submit a separate Order requesting Board approval for an exemption for Construction Manager/General Contractor (CM/GC) services. That process requires that the County place a public notice two weeks before the Multnomah County Board of County Commissioners considers the proposed Resolution approving the Project Plan and the Order requesting exemption approval. That two week public notice requirement will have been complied with prior to the September 18, 2003 Board meeting.

It's a little cumbersome, so feel free to tweak. Thanks.

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



MULTNOMAH COUNTY OREGON

DEPARTMENT OF BUSINESS AND COMMUNITY SERVICES
FACILITIES AND PROPERTY MANAGEMENT DIVISION
401 NORTH DIXON STREET (FIRST FLOOR)
PORTLAND, OREGON 97227-1865
(503) 988-5643 FAX
(503) 988-3322


BOARD OF COUNTY COMMISSIONERS
DIANE LINN • CHAIR OF THE BOARD
MARIA ROJO DE STEFFEY • DISTRICT 1 COMMISSIONER
SERENA CRUZ • DISTRICT 2 COMMISSIONER
LISA NAITO • DISTRICT 3 COMMISSIONER
LONNIE ROBERTS • DISTRICT 4 COMMISSIONER

MEMORANDUM

DATE: August 15, 2003

TO: Agenda Review Team

CC: M. Cecilia A. Johnson, Department of Business and Community Services Director
Douglas E. Butler, Facilities and Property Management Division Director
John F. Kauffman, Multnomah County Elections Division Director

FROM: Clark R. Jurgemeyer 

SUBJECT: Elections Building Combined Upgrade Project – MFCP Project Plan

The Combined Upgrade Project consolidates several projects previously authorized by the Board with new building maintenance work and new federally-funded mandates into one project that will exceed one million dollars in total project cost. Therefore, the Combined Upgrade Project requires a Major Facilities Capital Project (MFCP) review by the Board pursuant to Resolution 02-136.

FPM requests the *Preliminary Planning Proposal* and *Project Proposal* as required by Resolution 02-136 be waived because a similar review was previously accomplished when County-funded portions of the work were approved as separately funded Capital Projects. For the federally-funded portions of the work, the program requirements are mandated and funds are provided.

FPM requests the *Project Plan* for a Major Facilities Capital Project in the amount of \$1,875,000 for the Combined Upgrade Project proposed for the County-owned Elections Building located at 1040 SE Morrison Street in Portland, Oregon be accepted by the Multnomah County Board of County Commissioners. In support of this request, please find the following attachments:

- Agenda Placement Request
- Board Resolution
- Project Plan
 - 0. Table of Contents
 - 1. Project Approval Form
 - 2. Project Charter
 - 3. Project Development Plan
 - 4. Siting Plan
 - 5. Operational Funding Plan
 - 6. Capital Funding Plan
 - 7. Appendix A Resolution 02-136

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Approving the Project Plan for a Major Facilities Capital Project in the Amount of \$1,875,000 as Required by Resolution 02-136 for the Combined Upgrade Project Proposed for the County-Owned Elections Building Located at 1040 SE Morrison Street, Portland

The Multnomah County Board of Commissioners Finds:

- a. The federal government will provide reimbursement through the Help America Vote Act (HAVA) to upgrade election facilities. The County Board of Commissioners has authorized \$375,000 of ADA and Elections Building capital projects in the 2003/2004 Adopted Budget. The Combined Upgrade Project consolidates these projects into one project that will exceed one million dollars in total project cost. Therefore, the Combined Upgrade Project requires review by this Board pursuant to Resolution 02-136.
- b. The Preliminary Planning Proposal as required by Resolution 02-136 is waived because review of “the initial estimate of program requirements, project scope and costs, funding sources, and assessment of the Project’s consistency with the County’s overall policies, plans, and strategies” was previously accomplished when County-funded portions of the work were approved as separately funded Capital Projects. For the federally-funded portions of the work, the program requirements are mandated and funds are provided.
- c. The Project Proposal as required by Resolution 02-136 is waived because review of the investigation of “project justification, feasibility, and alternatives, risk identification and assessment, probable project milestone dates ...” was previously accomplished when County-funded portions of the work were approved as separately funded Capital Projects.
- d. The Project Plan as required by Resolution 02-136 is accepted and approved as submitted.
- e. Project Design and Construction as required by Resolution 02-136 will be reviewed by the Board before the project proceeds to construction.

The Multnomah County Board of Commissioners Resolves:

1. The Board approves the Project Plan for this proposed project.
2. The Board authorizes Facilities and Property Management to proceed with design and to submit the Project Design and Construction for review as required by Resolution 02-136.

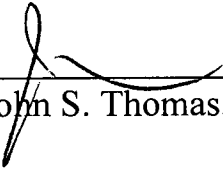
ADOPTED this 18th day of September, 2003.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By  _____
John S. Thomas, Assistant County Attorney



PROJECT PLAN

ELECTIONS BUILDING Combined Upgrade Project

Major Facilities Capital Project (MFCP) Review Documents
Required for Board of County Commissioners Approval

As Defined in Resolution 02-136 (Appendix A):

- (2a) Preliminary Planning Proposal
- (2b) Project Proposal
- (2c) Project Plan and
- (2d) Project Design and Construction

TABLE OF CONTENTS

1. PROJECT APPROVAL	1 pages
2. PROJECT CHARTER	6 pages
3. PROJECT DEVELOPMENT PLAN	4 pages
4. SITING PLAN	1 pages
5. OPERATIONAL FUNDING PLAN	2 pages
6. CAPITAL FUNDING PLAN	2 pages
7. APPENDICES	
A Resolution 02-136: Establishing a Policy for Construction of Major Facilities Capital Projects	4 pages

Remainder of page left blank.

**PROJECT APPROVAL****ELECTIONS BUILDING
Combined Upgrade Project**

PROJECT SUMMARY: The Combined Upgrade Project consolidates separately funded and scheduled work.

1. **Americans with Disabilities Act (ADA):** Upgrade building accessibility, restroom accessibility, and other facilities on all three building floors to comply with ADA requirements.
2. **Elevator Installation:** Install a new elevator to service all three building floors to improve accessibility for disabled persons and movement of materials (logistics).
3. **Security Upgrades:** Convert all but two exterior doors to exit only. Install proximity card reader systems on the two remaining exterior doors and two new lobby access doors.
4. **Operation & Maintenance:** Relocate roof access hatch and ladder for operational safety. Repair basement wall leaks for building maintenance. Resolve drinking water quality issues.
5. **Help America Vote Act (HAVA):** Upgrade building entry, lobby and counters to facilitate voter access and to secure voting process integrity. Provide space and support for new federally mandated Direct Recording Electronic (DRE) voting machines. Improve the workspace for Elections staff.

PROJECT TYPE: ☐ Minor Project (< \$1,000,000 including soft costs)
☒ Major Project (> \$1,000,000 including soft costs)

APPROVAL PHASE: ☐ Preliminary Planning Proposal
☐ Project Proposal
☒ Project Plan
☐ Project Construction Plan

Submitted by: Clark R. Jurgemeyer
Project Manager

Signature

Date

Manager Review: John A. Lindenthal
CIP Section Manager

Signature

Date

REVIEW AND APPROVAL (required for all projects):

Facility Review: Esther Lugalía
FPM Property Manager

Signature

Date

FPM Review: Douglas E. Butler
FPM Division Director

Signature

Date

Client Review: John F. Kauffman
Elections Division Director

Signature

Date

REVIEW AND APPROVAL (Major Facility Capital Projects only):

DBCS Review: M. Cecilia A. Johnson
DBCS Director

Signature

Date

Remainder of page left blank.



PROJECT CHARTER

ELECTIONS BUILDING Combined Upgrade Project

PROJECT IDENTIFICATION

Charter Date: August 15, 2003
Project Name: Building Number 414 - Elections Building: Combined Upgrade Project
Project Number: CP08.04.01A, CP10.04.02, CP10.04.21, Building Base, & Service Request
Charter Authors: Clark R. Jurgemeyer

PROJECT DESCRIPTION

The Combined Upgrade Project consolidates separately funded and scheduled work to improve construction coordination, reduce project management costs, and lessen impact on Election operations.

PROJECT DEFINITION

CP08.04.01A - Americans with Disabilities Act (ADA): Upgrade building accessibility, restroom accessibility, and other facilities on all three building floors to comply with ADA requirements.

CP10.04.02 - Elevator Installation: Install a new elevator to service all three building floors to improve accessibility for disabled persons and movement of materials (logistics).

CP10.04.21 - Security Upgrades: Convert all but two exterior doors to exit only. Install proximity card reader systems on the two remaining exterior building doors and two new lobby access doors.

Building Base - Operation & Maintenance: Relocate roof access hatch and ladder for operational safety. Repair basement wall leaks for building maintenance. Resolve drinking water quality issues.

Service Request - Help America Vote Act (HAVA): Upgrade building entry, lobby and counters to facilitate voter access and to secure voting process integrity. Provide space and support for new federally mandated Direct Recording Electronic (DRE) voting machines. Improve the workspace for Elections staff.

STAKEHOLDERS or SPONSORS

Stakeholder(s): Multnomah County Elections Division
Multnomah County Facilities & Property Management Division

Sponsor(s): Multnomah County Elections Division
Multnomah County Facilities & Property Management Division

Client(s): Multnomah County Elections Division

Dept(s) Affected: Multnomah County Elections Division
Multnomah County Facilities & Property Management Division
Elected Officials

GOALS and OBJECTIVES

Why is this project being done?

The federal government passed and funded the Help America Vote Act (HAVA) to remove barriers and hindrances to public participation in the voting process. The County budgeted money from its Americans with Disabilities Act (ADA) fund to match and supplement federal money. The County budgeted and planned separate Capital Projects for a new elevator and for security upgrades. The County has Building Base funds for additional operations and maintenance work to improve building safety and repair leaks.

What will it achieve?

The proposed work will provide access and support for disabled or impaired voters, in addition to the Elections temporary staff whose average age is 78 years old. The proposed work will improve the security and safety of both the public and the Elections staff. The proposed work will also improve the efficiency and integrity of the Elections process.

Are there supportive background reports?

Refer to the *Oregon Elections Plan to Implement the Help America Vote Act of 2002* available from the Elections Division and the *ADA Building Survey Report* available from Facilities and Property Management.

KEY PERSONNEL RESOURCES

Multnomah County Elections Division

John F. Kauffman, Director
Mary L. Shultz, Assistant Director

Multnomah County Facilities and Property Management Division

Douglas E. Butler, Director
John A. Lindenthal, CIP Manager

DELIVERABLES

Completed construction documents, successful bidding process, and construction completion within budget and on schedule

PROJECT MILESTONES and TARGET DATES

The Elections Building must maintain business hours and operations during construction. Contractors must secure their work and have no construction personnel present during specific periods from before to after each scheduled election. Construction must be complete prior to November 2004 General Election.

May 2003	Program ADA and HAVA project scopes
July 2003	Program elevator and operation/maintenance project scopes Solicit A/E fee proposals from next firm on the pre-approved rotating list
Aug 2003	Request Major Facility Capital Project (MFCP) approval (Sept 18 Board review) Request Construction Manager/General Contractor (CM/GC) exemption (Sept 18 review) Start Schematic Design

Sept 2003	<u>September Special Election</u> Review Schematic Design
Oct 2003	Begin Design Development Solicit CM/GC Services
Nov 2003	<u>November Special Election</u> Review Design Development Award CM/GC Services
Dec 2003	Start Construction Documents Prepare Elevator Bid Package
Jan 2004	Review Construction Documents Pre-Order Elevator Systems Prepare Subcontract Bid Packages
Feb 2004	Review Bid Packages (County Contracts) Revise Subcontract Bid Packages
Mar 2004	<u>March Special Election</u> Bid Subcontract Work
Apr 2004	Award Subcontract Work Pre-Order and Stage Material
May 2004	<u>May Primary Election</u> Start Construction
Sep 2004	<u>September Special Election</u> Resume Construction
Oct 2004	Complete Construction Closeout Project
Nov 2004	<u>November General Election</u>

PROJECT BUDGET

The Charter Budget includes the fixed amount of funds available from the first two sources and an estimate of the funds needed from the other three sources. The Schematic Design phase will conclude with a cost estimate which will be used to update the Charter Budget. The later Design Development and Construction Document phases will also conclude with a cost estimate which will be used to update the Charter Budget. If required, additional funds are available from the last three sources (primarily the Service Request).

\$ 200,000	CP08.04.01A - Americans with Disabilities Act (ADA)
\$ 150,000	CP10.04.02 - Elevator Installation
\$ 10,000	CP10.04.21 - Security Upgrades
\$ 15,000	Building Base - Operation & Maintenance
<u>\$ 1,500,000</u>	Service Request - Help America Vote Act (HAVA)
\$ 1,875,000	Charter Budget

BENEFITS

Americans with Disabilities Act (ADA): Provide accessible doors (and hardware), paths, ramps, and stairs for the disabled or impaired public and staff. Provide accessible restrooms and other facilities on all three building floors. Provide accessible lunch rooms for permanent and temporary staff.

Elevator Installation: Provide a new elevator to service all three building floors to improve accessibility for disabled persons and movement of materials (logistics). Provide both front and back elevator doors to separate personnel traffic from material movement.

Security Upgrades: Limit the number of building entry points and install security access systems at those entries. Convert the remaining exterior doors to exit only. Create a "capture lobby" to limit public access to employee work areas. Develop crowd control and elevator lock outs to maintain order during peak hours.

Operation & Maintenance: Relocate roof access hatch and ladder to improve operations and increase safety. Repair basement walls where water infiltrates to halt increased damage and forestall possible contamination or mold concerns. Resolve drinking water quality issues.

Help America Vote Act (HAVA): Upgrade the entry lobby counters to facilitate voter access and secure voting process integrity. Provide space and support for new federally mandated Direct Recording Electronic (DRE) voting machines designed for disabled or impaired voters. Provide additional support for temporary election staff who are elderly.

IMPACT

Americans with Disabilities Act (ADA): Achieve compliance with current ADA requirements.

Elevator Installation: Increase personnel access and improve material movement safety.

Security Upgrades: Increase building, employee, and public security.

Operation & Maintenance: Improve building operation and maintenance.

Help America Vote Act (HAVA): Facilitate voter access and secure voting process integrity.

CONSTRAINTS

No work may interfere with the election process or compromise the integrity of the election process. Construction must begin after the May 2004 Primary Election and complete before the November 2004 General Election. If there is a September 2004 Special Election, construction work must be interrupted and impacted areas must be safely protected for a fixed period of time surrounding that election.

RISKS and CONCERNS

☒ SPACE

The Elections Building must be open to the public and continue to operate during every business day of the year. Work must not hinder or impair public participation in the voting process, nor the voting process integrity. Construction work must be performed in phases, as approved by Elections.

<input checked="" type="checkbox"/> SCOPE	As the work proceeds, the project scope may increase due to unforeseen conditions or unanticipated requirements.
<input checked="" type="checkbox"/> PERMITS/ZONING	As permit submittals are checked and field work inspected, the project scope may increase due to code changes or code interpretations by those Authorities Having Jurisdiction.
<input type="checkbox"/> LAND ACQUISITION	No issues. The Elections Building is County-owned and designated as a Tier 1 facility (retain and maintain).
<input checked="" type="checkbox"/> FUNDING/BUDGETING	If unforeseen conditions or additional requirements are encountered, additional funding may be needed. Contingency reserves for unknown conditions and additional requirements are calculated at 10% of estimated total design, construction, and project cost.
<input checked="" type="checkbox"/> TIMING	All work must be complete prior to the November 2004 General Election. No construction work may occur during the March, May or September elections. Elections staff may require some work be done during off-hours (e.g. demolition, drilling or jack hammering).
<input type="checkbox"/> NEIGHBORHOOD	No issues. Ninety-nine percent of the work is interior remodeling and upgrades. On the exterior, only the doors will be altered.
<input checked="" type="checkbox"/> OTHER	Asbestos, lead-based paint or mold may be encountered in immediate work areas. FPM will evaluate and either encapsulate or remove the material, as appropriate. Such additional work may impact the budget.

ASSUMPTIONS

Authorities Having Jurisdiction: The proposed work will not trigger additional requirements by those Authorities Having Jurisdiction, such as seismic improvements, area separations, exterior landscaping, or other expensive construction work. Architect/Engineer will verify this assumption during Schematic Design.

CM/GC Exemption: The Board will adopt a RESOLUTION approving our separate request for exemption from competitive bidding requirements pursuant to ORS 279.015 so that the Multnomah County Facilities and Property Management Division may solicit and execute a Construction Manager/General Contractor (CM/GC) agreement. The CM/GC will also assist in the scheduling and estimating of construction work. Prior to construction, the CM/GC will submit and have approved operational contingency plans, phased construction plans, and project cash flow projections.

DRE Specifications: The Direct Recording Electronic (DRE) voting machines will have the approximate size, shape, weight, and power/data requirements as projected. Though the machines have not been made, tested and approved for use in Oregon, there are examples of similar machines upon which our estimates are based. We further assume these new DRE voting machines will be purchased, delivered, installed, tested, and approved for use in Oregon.

Federal Fund Distribution: Federal funds from the Help America Vote Act (HAVA) will be allocated by the State of Oregon to Multnomah County based upon our percentage (19.65%) of the voting age population in the state, as currently described by the Oregon Secretary of State officials who will administer these funds.

CORRESPONDENCE

Refer to the CP10.04.02 – Elevator Installation project files, which will be used as the common repository for information concerning any work (not just elevator work) included in the Combined Upgrade Project.

PROJECT SITE LOCATION

The Elections Building is located at 1040 SE Morrison Street on the southwest corner of 11th Avenue in Portland, Oregon.



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PROJECT DEVELOPMENT PLAN

ELECTIONS BUILDING Combined Upgrade Project

Multnomah County Facilities and Property Management Division (FPM) will assign personnel to manage the proposed project. The FPM Project Manager will further develop the project execution strategy and manage available resources. The Project Manager will establish project controls for scope, time, cost, and quality management. The Project Manager will also work with the client to prepare contingency plans.

EXECUTION STRATEGY

The Elections Building must maintain business hours and operations during construction. Contractors must secure their work and have no construction personnel present during specific periods from before to after each scheduled election. Contractors must complete all work prior to the November 2004 General Election.

FPM consolidated separately funded and scheduled work into one single remodeling project to improve construction coordination, reduce project management costs, and lessen impact on Elections operations. FPM will work with the client and other resources to develop a project Phasing Plan that allows Elections operations to continue unimpeded and without loss of integrity during construction.

RESOURCE MANAGEMENT

The FPM Project Manager has access to professional and technical support within the County. The FPM Project Manager will contract with professional services and County trades to execute the proposed work.

Architect/Engineer (A/E)

FPM will request a Cost Proposal from the next A/E firm on the pre-approved rotating list. The A/E will subcontract with structural, mechanical, electrical, and other consultants to provide engineering services as required for this project. FPM will request the A/E firms place special emphasis on code analysis and pre-application conferences with Authorities Having Jurisdiction to reduce potential and costly surprises later in project development.

Construction Manager/General Contractor (CM/GC)

FPM will request the Board of County Commissioners approve an exemption from the public bidding process so FPM may solicit Requests for Proposals from qualified CM/GC firms, according to the procedures set forth in the Public Contract Review Board rule AR310-0220. FPM recommends a project of this nature is best managed and the interests of the County are best served utilizing the experience of a Construction Manager/General Contractor (CM/GC) with a proven expertise in "time critical" projects.

Systems Furniture Contractor

FPM will contract with a systems furniture firm to relocate and reconfigure the existing workstations in the first floor workspace to accommodate changes in the lobby and counter layouts.

County Alarms

FPM will contract with County Alarms personnel to furnish and install security card readers on two exterior building doors and two interior lobby doors. The Alarms group will work with the client to determine programming parameters (e.g. access hours) for each access card holder. Alarms will issue access

cards to Elections staff and update other pertinent access card holders (e.g. FPM maintenance personnel).

County Telecom

FPM will contract with the Information Technology Division (IT) Telecom personnel to relocate telephones for the relocated workstations. Telecom personnel will also install data for new countertop computers and Direct Recording Electronic (DRE) voting machines.

County Signs

FPM will contract with the County Sign Shop to manufacture and install identification, information, and directional signs. The Sign Shop will provide all code required signage. The Sign Shop will work with the client to determine what additional signs are required to assist in crowd control and voter processing.

PROJECT CONTROLS

FPM will require the A/E to comply with County policies, procedures, guidelines and standards. The A/E contract will segment project design and engineering into separately authorized standard professional service phases: Schematic Design, Design Development, Construction Documents, and Contract Administration. The A/E will update project scope, schedule and cost estimates at the end of each phase. Elections and FPM will review and approve the updates before authorizing continuation to the next phase.

After CM/GC subcontractor awards, FPM will require the A/E to separate and classify subsequent construction modifications according to Change Categories established by the County. The A/E will keep a current log of requested and approved changes with running totals for each Change Category. The A/E may authorize minor changes in contractor work that does not involve adjustment to the contract sum or contract time. However, any changes to the contract sum or contract time will require prior written approval from the County. At project completion, the A/E will total each Change Category and summarize why those expenses were incurred. To control scope changes, FPM established the following Change Categories:

- Unforeseen Conditions
- Code Requirements
- Scope Modifications
- Tenant Requests
- Program Omissions
- Document Coordination
- Special Requirements

SUBSIDIARY MANAGEMENT PLANS

FPM will contract a CM/GC to work with the client to develop supplemental or subsidiary management plans for review and approval prior to start of construction. The CM/GC will update these plans periodically.

Contingency Plans

The CM/GC will develop Contingency Plans to respond to potential problems that may occur during the construction project. Contingency Plans will address, but not be limited to, the following potential issues:

- Schedule delays
- Electrical outages
- Telecom disruptions
- Construction damages
- Unscheduled special elections
- Unacceptable subcontractor performance

Construction Phasing Plans

The CM/GC will develop an overall project schedule to meet the strict project deadlines and phasing plans to satisfy the operational requirements of the Elections staff. Operational needs include the following:

- Public access during every business day
- Computer operations every calendar day
- Absentee Voter tabulations during specific periods
- Building floor and restroom access every business day
- Election process and data integrity every calendar day

Project Cash Flow Projections

The CM/GC will develop project cash flow projections so the County may anticipate funding requirements.

OPEN ISSUES AND PENDING DECISIONS

Determine whether to use a “drilled” or “holeless” elevator pit system. For other open issues and pending decisions, refer to the Assumptions section of the *Project Charter*.

SCOPE OF WORK

The following breakdown describes the major elements of work, which are grouped by physical proximity or similar function (rather than by funding source). The work is listed in order of priority. If estimated costs exceed projected budgets or funding sources fail to be fully available, the project will continue with reduced scope to include those items highest on the list that remain affordable and have adequate funding available.

Item 1 - Building & Lobby Access

Upgrade the main building entry and ramp to meet code. Install more functional service counters to provide areas for disabled access, with power and telecom for countertop computers and federally-mandated voting machines. Create a “capture lobby” to restrict the public from entering employee workspaces.

Item 2 - Building Elevator

Remodel the Absentee Voter Office, Hall and Director’s Office to provide space and access for an elevator. Provide a three-story, accessible elevator that may also be used to move 40”x48” pallets of material. Provide both front and back doors to separate pedestrian traffic and material movement.

Item 3 - Mezzanine Conference Room

Replace the existing Mezzanine toilet with accessible, unisex restrooms. Reconfigure the doorway and install an accessible ramp to the Conference Room. Install a counter system on the south wall of the Conference Room with a continuous shelf above to store federally-mandated voting equipment.

Item 4 - Employee Support

Remodel the existing Lunch Room to provide accessible fixtures and features. Remodel the nearby restroom for access from the Hall and to meet accessibility requirements. Remodel the Basement restroom to meet accessibility requirements. Install accessible electric water coolers on each floor.

Item 5 - Basement/Mezzanine Access

Remodel the existing Basement and Mezzanine stairways to meet current code requirements for rise and run, toe plates and landings, and guardrails and handrails.

Item 6 - Conference Room Presentation

Upgrade the existing Mezzanine Conference Room to support voter education and employee training. Improve sound protection and ventilation. Provide audio/visual equipment and support.

Item 7 - Alternate Work

For budget purposes, isolate security, operation and maintenance work. Install card readers on exterior and lobby doors. Relocate the roof ladder and hatch. Fix leaks in the Basement foundation wall. Resolve drinking water quality issues.

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SITING PLAN

ELECTIONS BUILDING Combined Upgrade Project

The Elections Building is an existing facility and a Siting Plan is not required for this project.

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MULTNOMAH COUNTY OREGON

DEPARTMENT OF BUSINESS AND COMMUNITY SERVICES
JOHN KAUFFMAN, DIRECTOR OF ELECTIONS
1040 SE MORRISON ST
PORTLAND, OREGON 97214
(503) 988-3720 Phone
(503) 988-3719 Fax
Web Site: www.mcelections.org

BOARD OF COUNTY COMMISSIONERS
DIANE LINN • CHAIR OF THE BOARD
MARIA ROJO de STEFFEY • DISTRICT 1 COMMISSIONER
SERENA CRUZ • DISTRICT 2 COMMISSIONER
LISA NAITO • DISTRICT 3 COMMISSIONER
LONNIE ROBERTS • DISTRICT 4 COMMISSIONER

MEMORANDUM

TO: Clark R. Jurgemeyer, Facilities and Property Management Project Manager

CC: M. Cecilia A. Johnson, Department of Business and Community Services Director

FROM: John F. Kauffman, Multnomah County Elections Division Director *jk*

DATE: August 15, 2003

SUBJECT: Elections Building Combined Upgrade Project - Operational Funding Plan

On February 13, 2003 Congress passed a \$1.48 billion appropriations bill which contained funding for election reform under the Help America Vote Act (HAVA). Almost all of this funding will go to the states and this is historic. In more than 225 years, the federal government has never spent federal dollars on the cost of elections. This fact is the impetus for the consolidation at this time of separately funded and scheduled efforts into a single remodeling project at the Elections Office. We expect this multi-faceted project, once operational, will significantly increase access and support for disabled voters, as well as for our workforce of temporary election staff (whose average age is 78 years old) and our permanent employees. No Elections Division personnel will be laid off nor hired by the completion of either aspect of the project and the only anticipated increase in the Elections Division operating budget will be reimbursable by HAVA funds. The proposed construction and remodeling project will incorporate the following:

Americans with Disabilities Act (ADA)
Achieves compliance with current ADA requirements.

Elevator Installation
Increases personnel/public access and improves election materials movement safety.

Security Upgrades
Increase building, employee, and public security.

Operation and Maintenance

Improves building operational safety and enhances a healthy environment for public and staff.

Help America Vote Act (HAVA)

Facilitates voter access and secures the voting process integrity.

PRIOR TO CONSTRUCTION

Effort: Attend a standing meeting every Wednesday to collect information, review progress, and assign work (action items). Complete assigned action items to obtain additional information about funding requirements, voting equipment, election processes, and required approvals. Work with Construction Manager/General Contractor (CM/GC) to develop contingency/phasing plans in case anything goes wrong during construction. Review and approve proposed work.

Impact: There will be no workforce reduction. There will be some operational time assigned to the project.

Cost: No additional operational costs foreseen.

DURING CONSTRUCTION

Effort: Attend a standing meeting every Wednesday to discuss the progress and quality of work, operational concerns and impacts, and assign work (action items). Complete assigned action items. Review and approve proposed changes to the work (if any).

Impact: There will be no workforce reduction. There will be some operational time assigned to the project. There will be temporary relocation of staff and work areas elsewhere in the building. There will be some operational procedure changes during the phased construction work.

Cost: Additional operational costs for construction water, power, and telecom services will be reimbursable by HAVA funds. The CM/GC will provide all other construction facilities and utilities.

POST CONSTRUCTION

Effort: Attend a standing meeting every Wednesday to discuss the commissioning and closeout of work, operational concerns and impacts, and assign work (action items). Complete assigned action items. Review and approve the completed work and outstanding punch list items (if any).

Impact: There will be no workforce reduction. There will be some operational time assigned to the project. There will be permanent relocation of staff and work areas within the building. There will be operational procedure changes for use of the remodeled facilities and to process customers during election periods.

Cost: Additional operational costs for staff training will be reimbursable by HAVA funds, as well as any interest payments on County loans.

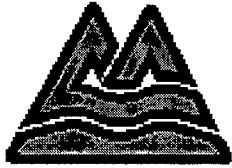
CONTINUING OPERATIONS

Effort: Pay attention to completed work and new equipment for next 12 months to assure warranty enforcement. Continue the effort to upgrade facilities, equipment, and operations. Schedule timely maintenance of DRE voting system and training of staff/public in its use.

Impact: There will be no workforce reduction.

Cost: No additional operational costs foreseen.

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MULTNOMAH COUNTY, OREGON

COUNTY COMMISSIONERS

DIANE LINN, CHAIR
MARIA ROJO DE STEFFEY, DISTRICT #1
SERENA CRUZ, DISTRICT #2
LISA NAITO, DISTRICT #3
LONNIE ROBERTS, DISTRICT #4

MULTNOMAH BUILDING
501 SE HAWTHORNE BLVD.
PO BOX 14700
PORTLAND, OR 97293-0700
PHONE (503) 988-3312
FAX (503) 988-3292

TO: Board of County Commissioners

FROM: David Boyer, Chief Financial Officer

DATE: August 13, 2003

SUBJECT: Elections Building - Capital Funding Plan

The Elections Building Project is being proposed to combine several projects into one project and leverage County funds to obtain Help American Vote Act of 2002 (HAVA) funds. The federal government enacted HAVA in October 2002 along with companion funding. The State of Oregon will be receiving about \$22.2 million in HAVA funds with Multnomah County's share being potentially between \$1.9 to \$3.1 million. Legislation enabling the creation of an Election Fund Administrative Compliant Procedure has been passed by the Legislature and signed into law by Governor Kulongoski. Secretary of State Bill Bradbury, working with the State of Oregon HAVA Committee, has developed a plan to implement and distribute the funds for the various projects. John F. Kauffman, Multnomah County Elections Officer, was a member of this committee.

The federal government passed and funded the Help America Vote Act (HAVA) to remove barriers and hindrances to public participation in the voting process. The County budgeted money in the FY 2003/2004 Budget for Americans with Disabilities Act (ADA) projects to match and supplement federal money. The County budgeted and planned separate capital projects for a new elevator and for security upgrades. The County also budgeted funds for additional maintenance work to improve building safety and repair leaks.

The proposed work will provide access and support for disabled or impaired voters, in addition to the Elections temporary staff whose average age is 78 years old. In addition, the proposed work will improve the security and safety of both the public and the Elections staff and improve the efficiency and integrity of the Elections process.

The building project being proposed qualifies for funding under HAVA and will consist of the following:

- Elevator Installation: Install a new elevator to service all three building floors to improve accessibility for disabled persons and movement of materials (logistics).

- Security Upgrades: Convert all but two exterior doors to exit only. Install proximity card reader systems on the two remaining exterior building doors and two new lobby access doors.
- Building Repair and Safety: Relocate roof access hatch and ladder for operational safety. Repair basement wall leaks for building maintenance. Resolve drinking water quality issues.
- Building Enhancements: Upgrade building entry, lobby and counters to facilitate voter access and to secure voting process integrity. Provide space and support for new federally mandated Direct Recording Electronic (DRE) voting machines. Improve the workspace for Elections staff.

The Project Budget includes the \$375,000 of funds available from the Fiscal Year 2003/2004 adopted budget for the first four projects and the \$1,500,000 is reimbursable from the federal government through the State of Oregon for HAVA projects.

\$ 200,000	Americans with Disabilities Act (ADA)
\$ 150,000	Elevator Installation
\$ 10,000	Security Upgrades
\$ 15,000	Building Repair and Safety
<u>\$1,500,000</u>	Building enhancement - Help America Vote Act (HAVA)
\$1,875,000	Total Charter Budget

Finance and Budget have reviewed the federal Help America Vote Act of 2002 and Oregon Elections Plan to implement the Act. To receive federal funding, Oregon must certify that it has established a State Election Fund that is separate and distinct from the General Fund and that it has an administrative compliant procedure for HAVA violations. This Legislation has been passed and signed by Governor Kulongoski.

We will monitor the expenditures and work with Elections and Facilities to be reimbursed for the \$1,500,000. We will ensure that the approval of these funds is secure prior to beginning the major construction.

The \$1,500,000 is not included in the adopted budget and will need to be added through the supplemental budget process

If you have any questions, please contact me.

c. Karyne Dargan

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 02-136

Establishing a Policy for Construction of Major Facilities Capital Projects

The Multnomah County Board of Commissioners Finds:

- a. At the direction of the Chair and with the support of the Board and the Cabinet, Facilities and Property Management (FPM) has initiated a significant improvement strategy for managing facilities capital projects.
- b. A Capital Construction Audit, prepared by the County Auditor's Office and issued in September 2002, assessed the County's ability to carry out major construction projects and found deficiencies in upfront planning controls, decision-making responsibilities and authority, and technical skills and tools. The Audit contained recommendations for improvement in internal administrative procedures and found the need for improved lines of responsibility and authority.
- c. It is the Board's policy to maintain its authority to review and approve Major Facilities Capital Projects to insure consistency with departmental budgets, the Capital Improvement Plan, and overall County policies and strategies.
- d. There is a need to revise the County's Facilities Capital Project Administrative Procedures to conform with the following project planning process improvements.

The Multnomah County Board of Commissioners Resolves:

1. Revised County Facilities Capital Project Administrative Procedures shall be developed by FPM for approval by the Chair for the planning and management of each facilities project with a capital budget greater than \$1,000,000, (hereafter referred to as a Major Facilities Capital Project).
2. The Revised County Facilities Capital Project Administrative Procedures shall describe each procedural phase and step and designate the following four phases as the key Planning Milestones for County reviews and approvals:
 - a. ***Preliminary Planning Proposal:*** Sponsoring departments shall notify FPM of program service needs which may affect facilities. FPM, in consultation with the sponsoring department(s), shall prepare an initial estimate of program requirements, project scope and costs, funding sources, and assess the Project's consistency with the County's overall policies, plans, and strategies, and develop a cost estimate for the next planning phase, development of the Project Proposal.
 - b. ***Project Proposal:*** FPM shall be responsible for preparing a Project Proposal which shall refine the findings produced during the Preliminary Planning Proposal phase. For the Project Proposal, FPM shall also

investigate project justification, feasibility, and alternatives, risk identification and assessment, probable project milestone dates, and develop a cost estimate for the next phase, development of the Project Plan.

- c. **Project Plan:** After approval of a Project Proposal, FPM shall prepare a Project Plan. The Project Plan shall contain five main components: Project Charter; Project Development Plan; Siting Plan; Operational Funding Plan; and Capital Funding Plan. The sponsoring department(s) shall develop the Siting Plan, which includes a plan for public involvement, submit the plan to the Chair for approval, and implement the Siting Plan. FPM shall consult with the sponsoring department(s) and the Finance Director in the preparation of the Project Plan.
- d. **Project Design and Construction:** After adoption of the Project Plan, FPM shall commence project design and construction. FPM, the sponsoring department(s), and the Finance Director shall jointly be responsible for updating the components of the Project Plan prior to the bidding and the construction phases. Project Construction Approval shall occur before a Major Facilities Capital Project can proceed to bidding and construction.

3. **Major Roles and Responsibilities:** The Facilities Capital Project Administrative Procedures shall identify roles and responsibilities for Major Facilities Capital Projects as follows:

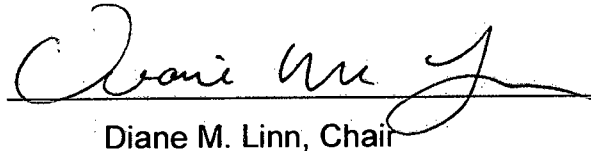
- a. **Board of County Commissioners:** Approval of Major Facilities Capital Projects consistent with overall County policies and strategies. Approval of the annual Capital Improvement Plan and Budget. Approval of Major Facilities Capital Projects at each of the four key planning milestones described above: Preliminary Planning Proposal; Project Proposal; Project Plan; Project Design and Construction. Approval of substantial changes to project scope and budget as defined in the Facilities Capital Project Administrative Procedures.
- b. **County Chair:** Executive oversight and direction for Major Facilities Capital Projects. Approval of Major Facilities Capital Projects at each of the four key planning milestones described above, and approval of the Siting Plan within the Project Plan phase.
- c. **Cabinet:** Guidance and coordination of County-wide and inter-departmental issues and capital project budget priorities. Advice on the Capital Improvement Plan. Review of Major Facilities Capital Projects at each of the four key planning milestones described above and allocation of project funding to proceed with the Project Proposal phase.

- d. **County Finance Director:** Preparation of and updating of the Project Capital Funding Plan as part of the Project Plan and Project Construction Approval.
- e. **Sponsoring Department(s):** Notice to FPM of program service needs which may affect facilities. Program technical information to enable FPM to plan and manage Major Capital Projects. Preparation and management of proposed operational budgets and the Operational Funding Plan for programs to be located in Major Facilities Capital Projects.
- f. **Facilities and Property Management Division:** Overall planning and management of Major Facilities Capital Projects, including production of project documents and coordination of approvals as described above. Project planning services as described above in response to requests from sponsoring department(s). Track, review, and advise the Department, Cabinet, Chair, and Board on significant changes in scope, siting, function, and budget.

ADOPTED this 17th day of October 2002.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Diane M. Linn, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By


John S. Thomas, Assistant County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 03-132

Approving the Project Plan for a Major Facilities Capital Project in the Amount of \$1,875,000 as Required by Resolution 02-136 for the Combined Upgrade Project Proposed for the County-Owned Elections Building Located at 1040 SE Morrison Street, Portland

The Multnomah County Board of Commissioners Finds:

- a. The federal government will provide reimbursement through the Help America Vote Act (HAVA) to upgrade election facilities. The County Board of Commissioners has authorized \$375,000 of ADA and Elections Building capital projects in the 2003/2004 Adopted Budget. The Combined Upgrade Project consolidates these projects into one project that will exceed one million dollars in total project cost. Therefore, the Combined Upgrade Project requires review by this Board pursuant to Resolution 02-136.
- b. The Preliminary Planning Proposal as required by Resolution 02-136 is waived because review of “the initial estimate of program requirements, project scope and costs, funding sources, and assessment of the Project’s consistency with the County’s overall policies, plans, and strategies” was previously accomplished when County-funded portions of the work were approved as separately funded Capital Projects. For the federally-funded portions of the work, the program requirements are mandated and funds are provided.
- c. The Project Proposal as required by Resolution 02-136 is waived because review of the investigation of “project justification, feasibility, and alternatives, risk identification and assessment, probable project milestone dates ...” was previously accomplished when County-funded portions of the work were approved as separately funded Capital Projects.
- d. The Project Plan as required by Resolution 02-136 is accepted and approved as submitted.
- e. Project Design and Construction as required by Resolution 02-136 will be reviewed by the Board before the project proceeds to construction.

The Multnomah County Board of Commissioners Resolves:

1. The Board approves the Project Plan for this proposed project.
2. The Board authorizes Facilities and Property Management to proceed with design and to submit the Project Design and Construction for review as required by Resolution 02-136.

ADOPTED this 18th day of September, 2003.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By

John S. Thomas, Assistant County Attorney

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: September 18, 2003

Agenda Item #: R-5

Est. Start Time: 10:30 AM

Date Submitted: 08/25/03

Requested Date: September 18, 2003

Time Requested: 5 mins

Department: DBCS

Division: DBS/CPCA

Contact/s: Franna Hathaway

Phone: (503)988-5111

Ext.: 22651

I/O Address: 503/4

Presenters: Clark Jurgemeyer, Franna Hathaway

Agenda Title: ORDER Approving Exemption from the Formal Bid Process a Contract for a Construction Manager/General Contractor (CM/GC) for the Elections Building Combined Upgrade Project

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

1. What action are you requesting from the Board? What is the department/agency recommendation?

The Multnomah County Facilities and Property Management Division (FPM) requests an exemption from competitive bidding so that FPM may solicit and execute a Construction Manager/General Contractor (CM/GC) agreement on the Combined Upgrade Project proposed for the County-owned Elections Building located at 1040 SE Morrison Street in Portland, Oregon.

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

The Combined Upgrade Project consolidates capital projects in the 2003/2004 Adopted Budget with additional work reimbursable through the federal Help America Vote Act (HAVA) to create a Major Facilities Capital Project as defined by Resolution 02-136.

This project is time critical. Failure to fully complete work and vacate the premises prior to the November 2004 General Election has the potential to generate a contested election. FPM recommends a project of this nature is best managed and the interests of the County are best served utilizing the experience of a Construction Manager/General Contractor (CM/GC) with a proven expertise in 'time critical' projects." The main objectives are:

- To improve construction coordination
- To reduce project management costs, and
- To lessen the impact on Elections Building operations

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

The project is estimated to cost approximately \$1,500,000.

If a budget modification, explain: N/A

- ❖ What revenue is being changed and why?
- ❖ What budgets are increased/decreased?
- ❖ What do the changes accomplish?
- ❖ Do any personnel actions result from this budget modification? Explain.
- ❖ Is the revenue one-time-only in nature?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?

NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)

If a contingency request, explain: N/A

- ❖ Why was the expenditure not included in the annual budget process?
- ❖ What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?
- ❖ Why are no other department/agency fund sources available?
- ❖ Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.
- ❖ Has this request been made before? When? What was the outcome?

If grant application/notice of intent, explain: N/A

- ❖ Who is the granting agency?
- ❖ Specify grant requirements and goals.
- ❖ Explain grant funding detail – is this a one time only or long term commitment?
- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

4. Explain any legal and/or policy issues.

The exemption request is in accord with the requirements of Multnomah County Public Contract Review Board Administrative Rule AR310-0220.

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

Required Signatures:

Department/Agency Director: *Tony Mounts* Date: 08/22/03

Budget Analyst

By: Date:

Dept/Countywide HR

By: Date:



MULTNOMAH COUNTY OREGON

DEPARTMENT OF BUSINESS AND COMMUNITY SERVICES
FACILITIES AND PROPERTY MANAGEMENT DIVISION
401 NORTH DIXON STREET (FIRST FLOOR)
PORTLAND, OREGON 97227-1865
(503) 988-5643 FAX
(503) 988-3322

BOARD OF COUNTY COMMISSIONERS
DIANE LINN • CHAIR OF THE BOARD
MARIA ROJO DE STEFFEY • DISTRICT 1 COMMISSIONER
SERENA CRUZ • DISTRICT 2 COMMISSIONER
LISA NAITO • DISTRICT 3 COMMISSIONER
LONNIE ROBERTS • DISTRICT 4 COMMISSIONER

MEMORANDUM

DATE: August 18, 2003

TO: Franna Hathaway, CPPO, Manager
Central Procurement & Contract Administration (CPCA)

VIA: Greg Herlean

CC: Jan Thompson

FROM: Clark Jurgemeyer, FPM Project Manager

SUBJECT: Elections Building Combined Upgrade Project - CM/GC Exemption Request

The Multnomah County Facilities and Property Management Division (FPM) requests a RESOLUTION approving an exemption from competitive bidding requirements pursuant to Oregon Revised Statutes (ORS 279.015) and Public Contract Review Board rule (AR 310-0220) so that FPM may solicit and execute a Construction Manager/General Contractor (CM/GC) agreement on the Combined Upgrade Project proposed for the County-owned Elections Building located at 1040 SE Morrison Street in Portland, Oregon.

The Combined Upgrade Project consolidates capital projects in the 2003/2004 Adopted Budget with additional work reimbursable through the federal Help America Vote Act (HAVA) to create a Major Facilities Capital Project as defined by Resolution 02-136. FPM has requested a separate Resolution approving the Project Plan for this Combined Upgrade Project.

This project is time critical. Failure to fully complete work and vacate the premises prior to the November 2004 General Election has the potential to generate a contested election. After discussions with the Architect/Engineer, the County determined it would be difficult to force a General Contractor to comply with our schedule requirements. A liquidated damages clause would be difficult to enforce considering the possible loopholes (acts of God or County mistakes) and may not properly describe or reimburse potential liability costs to the County.

Furthermore, FPM requests this exemption from competitive bidding requirements to use an "alternative contracting process" (i.e. CM/GC) for the same reasons that FPM consolidated the proposed work into a single Combined Upgrade Project.

1. To improve construction coordination,
2. To reduce project management costs, and
3. To lessen the impact on Elections Building operations.

Refer to attached findings.

ELECTIONS BUILDING

FINDINGS IN SUPPORT OF AN ALTERNATIVE CONTRACTING PROCESS

The Multnomah County Facilities and Property Management Division (FPM) requests a RESOLUTION approving an exemption from competitive bidding requirements pursuant to Oregon Revised Statutes (ORS 279.015) and Public Contract Review Board rule (AR 310-0220) so that FPM may solicit and execute a Construction Manager/General Contractor (CM/GC) agreement on the Combined Upgrade Project proposed for the County-owned Elections Building located at 1040 SE Morrison Street in Portland, Oregon.

BACKGROUND

The Combined Upgrade Project consolidates capital projects in the 2003/2004 Adopted Budget with additional work reimbursable through the federal Help America Vote Act (HAVA) to create a Major Facilities Capital Project as defined by Resolution 02-136. FPM has requested a separate Resolution approving the Project Plan for this Combined Upgrade Project.

The Project Development Plan (portion of the Project Plan) states that: "FPM will request the Board of County Commissioners approve an exemption from the public bidding process so FPM may solicit Requests for Proposals from qualified CM/GC firms, according to the procedures set forth in the Public Contract Review Board rule AR310-0220. FPM recommends a project of this nature is best managed and the interests of the County are best served utilizing the experience of a Construction Manager/General Contractor (CM/GC) with a proven expertise in 'time critical' projects."

Oregon Revised Statutes (ORS 279.015) and Public Contract Review Board rule (AR 310-0220) provide a means of contracting other than the traditional competitive low bid process to public agencies. A local Public Contract Review Board (PCRB) may exempt certain public contracts or classes of public contracts from the competitive bidding requirements upon approval of findings submitted by the public contracting agency seeking exemption.

FINDINGS

Oregon Revised Statute 279.015 and PCRB Rule 310-0220 allow public contracting agencies an exemption from competitive bidding requirements upon approval of certain findings.

The requirements for justifying an exemption are stated below with their corresponding findings:

279.15 (2)(a) "It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts"

1. The CM/GC will be selected through the County's Request for Proposal (RFP) process which is an open competitive process. The selection criterion will include quality of previous work; available resources to meet schedule requirements; use of Minority, Women and Emerging Small Business subcontractors; experience in commercial remodeling, construction during occupancy and time critical project management, fee and other relevant criterion.
2. Competition will not be diminished because the CM/GC contract will be awarded based on a competitive process and will in fact be enhanced by requiring the CM/GC to use a competitive bidding process to select their subcontractors which is not required under a Formal Bid process.

279.15 (2)(b) "The awarding of public contracts pursuant to the exemption will result in substantial cost saving to the public contracting agency."

1. During the design phase prior to material and subcontractor bidding, the CM/GC will provide and update cost estimate information. These cost estimates will assist final decision-making about the project scope, product quality, and material finish. Using a CM/GC will allow more flexibility to develop, evaluate, and implement design changes with less impact on construction cost and time.

The use of value engineering through cooperation among the Architect, Engineer, Contractor and County is important to the project delivery on time and within budget. The CM/GC will participate in the design phase to propose the most economical (affordable) and practical (constructible) building solutions. CM/GC value engineering should reduce bid addenda, contract change orders, and progress delays to help meet the tight time schedule for the project.

2. This project is time critical. The Elections Building and staff work must remain in operation every business day before, during and after the project. On site work cannot begin until after the May 2004 Primary Election, but must be complete before the November 2004 General Election. A CM/GC Contractor can

assist during the design process with phasing of work to meet the required schedule. Some items including the elevator have a long lead time for delivery. A CM/GC Contractor can order these items while final design is being completed allowing for timely delivery to avoid delay and the negative impact of inflation.

To meet time schedules and reduce cost it is essential to have a contractor with experience in commercial remodeling, construction during occupancy, and time critical project management.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 02-136

Establishing a Policy for Construction of Major Facilities Capital Projects

The Multnomah County Board of Commissioners Finds:

- a. At the direction of the Chair and with the support of the Board and the Cabinet, Facilities and Property Management (FPM) has initiated a significant improvement strategy for managing facilities capital projects.
- b. A Capital Construction Audit, prepared by the County Auditor's Office and issued in September 2002, assessed the County's ability to carry out major construction projects and found deficiencies in upfront planning controls, decision-making responsibilities and authority, and technical skills and tools. The Audit contained recommendations for improvement in internal administrative procedures and found the need for improved lines of responsibility and authority.
- c. It is the Board's policy to maintain its authority to review and approve Major Facilities Capital Projects to insure consistency with departmental budgets, the Capital Improvement Plan, and overall County policies and strategies.
- d. There is a need to revise the County's Facilities Capital Project Administrative Procedures to conform with the following project planning process improvements.

The Multnomah County Board of Commissioners Resolves:

1. Revised County Facilities Capital Project Administrative Procedures shall be developed by FPM for approval by the Chair for the planning and management of each facilities project with a capital budget greater than \$1,000,000, (hereafter referred to as a Major Facilities Capital Project).
2. The Revised County Facilities Capital Project Administrative Procedures shall describe each procedural phase and step and designate the following four phases as the key Planning Milestones for County reviews and approvals:
 - a. **Preliminary Planning Proposal:** Sponsoring departments shall notify FPM of program service needs which may affect facilities. FPM, in consultation with the sponsoring department(s), shall prepare an initial estimate of program requirements, project scope and costs, funding sources, and assess the Project's consistency with the County's overall policies, plans, and strategies, and develop a cost estimate for the next planning phase, development of the Project Proposal.
 - b. **Project Proposal:** FPM shall be responsible for preparing a Project Proposal which shall refine the findings produced during the Preliminary Planning Proposal phase. For the Project Proposal, FPM shall also

investigate project justification, feasibility, and alternatives, risk identification and assessment, probable project milestone dates, and develop a cost estimate for the next phase, development of the Project Plan.

- c. **Project Plan:** After approval of a Project Proposal, FPM shall prepare a Project Plan. The Project Plan shall contain five main components: Project Charter; Project Development Plan; Siting Plan; Operational Funding Plan; and Capital Funding Plan. The sponsoring department(s) shall develop the Siting Plan, which includes a plan for public involvement, submit the plan to the Chair for approval, and implement the Siting Plan. FPM shall consult with the sponsoring department(s) and the Finance Director in the preparation of the Project Plan.
- d. **Project Design and Construction:** After adoption of the Project Plan, FPM shall commence project design and construction. FPM, the sponsoring department(s), and the Finance Director shall jointly be responsible for updating the components of the Project Plan prior to the bidding and the construction phases. Project Construction Approval shall occur before a Major Facilities Capital Project can proceed to bidding and construction.

3. **Major Roles and Responsibilities:** The Facilities Capital Project Administrative Procedures shall identify roles and responsibilities for Major Facilities Capital Projects as follows:

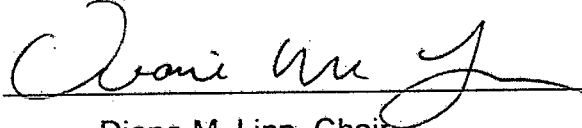
- a. **Board of County Commissioners:** Approval of Major Facilities Capital Projects consistent with overall County policies and strategies. Approval of the annual Capital Improvement Plan and Budget. Approval of Major Facilities Capital Projects at each of the four key planning milestones described above: Preliminary Planning Proposal; Project Proposal; Project Plan; Project Design and Construction. Approval of substantial changes to project scope and budget as defined in the Facilities Capital Project Administrative Procedures.
- b. **County Chair:** Executive oversight and direction for Major Facilities Capital Projects. Approval of Major Facilities Capital Projects at each of the four key planning milestones described above, and approval of the Siting Plan within the Project Plan phase.
- c. **Cabinet:** Guidance and coordination of County-wide and inter-departmental issues and capital project budget priorities. Advice on the Capital Improvement Plan. Review of Major Facilities Capital Projects at each of the four key planning milestones described above and allocation of project funding to proceed with the Project Proposal phase.

- d. **County Finance Director:** Preparation of and updating of the Project Capital Funding Plan as part of the Project Plan and Project Construction Approval.
- e. **Sponsoring Department(s):** Notice to FPM of program service needs which may affect facilities. Program technical information to enable FPM to plan and manage Major Capital Projects. Preparation and management of proposed operational budgets and the Operational Funding Plan for programs to be located in Major Facilities Capital Projects.
- f. **Facilities and Property Management Division:** Overall planning and management of Major Facilities Capital Projects, including production of project documents and coordination of approvals as described above. Project planning services as described above in response to requests from sponsoring department(s). Track, review, and advise the Department, Cabinet, Chair, and Board on significant changes in scope, siting, function, and budget.

ADOPTED this 17th day of October 2002.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Diane M. Linn, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By


John S. Thomas, Assistant County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT REVIEW BOARD

ORDER NO.

Order Approving Exemption from the Formal Bid Process a Contract for a Construction Manager/General Contractor(CM/GC) for the Elections Building Combined Upgrade Project

The Multnomah County Board of Commissioners Finds:

- a. The Board, acting as the Multnomah County Public Contract Review Board to review, pursuant to PCRB Rule AR310-0220, a request from the Facilities and Property Management Division for an exemption from the formal competitive bid process for a contract for the Elections Building Combined Upgrade Project. The Oregon Revised Statute (ORS) 279.015 provides means of contracting other than competitive low bid process to public agencies through the exemption process, upon satisfaction of certain requirements. The requirements for justifying an exemption are stated below with their corresponding findings:

- b. 279.15 (2)(a) "It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts"

1 The CM/GC will be selected through the County's Request for Proposal (RFP) process which is an open competitive process. The selection criteria will include quality of previous work; available resources to meet schedule requirements; use of Minority, Women and Emerging Small Business subcontractors; experience in commercial remodeling, construction during occupancy and time critical project management, fee and other relevant criteria.

2. Competition will not be diminished because the CM/GC contract will be awarded based on a competitive process and will in fact be enhanced by requiring the CM/GC to use a competitive bidding process to select their subcontractors which is not required under a Formal Bid process.

- c. 279.15 (2)(b) "The awarding of public contracts pursuant to the exemption will result in substantial cost saving to the public contracting agency."

1. The project is estimated to cost approximately \$1,500,000. During the design phase prior to material and subcontractor bidding, the CM/GC will provide and update cost estimate information. These cost estimates will assist final decision-making about the project scope, product quality, and material finish. Using a CM/GC will allow more flexibility to develop, evaluate, and implement design changes with less impact on construction cost and time.

The use of value engineering through cooperation among the Architect, Engineer, Contractor and County is important to the project delivery on time and within budget. The CM/GC will participate in the design phase to propose the most economical (affordable) and practical (constructible) building solutions. CM/GC value engineering should reduce bid addenda, contract change orders, and progress delays to help meet the tight time schedule for the project.

2. This project is time critical. The Elections Building and staff work must remain in operation every business day before, during and after the project. On site work cannot begin until after the May 2004 Primary Election, but must be complete before the

November 2004 General Election. A CM/GC Contractor can assist during the design process with phasing of work to meet the required schedule. Some items including the elevator have a long lead time for delivery. A CM/GC Contractor can order these items while final design is being completed allowing for timely delivery to avoid delay and the negative impact of inflation.

To meet time schedules and reduce cost it is essential to have a contractor with experience in commercial remodeling, construction during occupancy, and time critical project management.

- d. This exemption is in accord with the requirements of Multnomah County Public Contract Review Board rule AR 310-0220.

The Multnomah County Board of Commissioners, acting as the Public Contract Review Board, Orders:

That the contract for a CM/GC for the Elections Building Combined Upgrade Project be exempted from the formal competitive bidding process.

ADOPTED this 18th day of September, 2003.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON, ACTING
AS THE PUBLIC CONTRACT REVIEW BOARD

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
John Thomas, Assistant County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT REVIEW BOARD

ORDER NO. 03-133

Approving Exemption from the Formal Bid Process a Contract for a Construction Manager/General Contractor (CM/GC) for the Elections Building Combined Upgrade Project

The Multnomah County Board of Commissioners Finds:

- a. The Board, acting as the Multnomah County Public Contract Review Board to review, pursuant to PCRB Rule AR310-0220, a request from the Facilities and Property Management Division for an exemption from the formal competitive bid process for a contract for the Elections Building Combined Upgrade Project. The Oregon Revised Statute (ORS) 279.015 provides means of contracting other than competitive low bid process to public agencies through the exemption process, upon satisfaction of certain requirements. The requirements for justifying an exemption are stated below with their corresponding findings:
- b. 279.15 (2)(a) "It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts"
 1. The CM/GC will be selected through the County's Request for Proposal (RFP) process which is an open competitive process. The selection criteria will include quality of previous work; available resources to meet schedule requirements; use of Minority, Women and Emerging Small Business subcontractors; experience in commercial remodeling, construction during occupancy and time critical project management, fee and other relevant criteria.
 2. Competition will not be diminished because the CM/GC contract will be awarded based on a competitive process and will in fact be enhanced by requiring the CM/GC to use a competitive bidding process to select their subcontractors which is not required under a Formal Bid process.
- c. 279.15 (2)(b) "The awarding of public contracts pursuant to the exemption will result in substantial cost saving to the public contracting agency."
 1. The project is estimated to cost approximately \$1,500,000. During the design phase prior to material and subcontractor bidding, the CM/GC will provide and update cost estimate information. These cost estimates will assist final decision-making about the project scope, product quality, and material finish. Using a CM/GC will allow more flexibility to develop, evaluate, and implement design changes with less impact on construction cost and time.

The use of value engineering through cooperation among the Architect, Engineer, Contractor and County is important to the project delivery on time and within budget. The CM/GC will participate in the design phase to propose the most economical (affordable) and practical (constructible) building solutions. CM/GC value engineering should reduce bid addenda, contract change orders, and progress delays to help meet the tight time schedule for the project.

2. This project is time critical. The Elections Building and staff work must remain in operation every business day before, during and after the project. On site work cannot begin until after the May 2004 Primary Election, but must be complete before the November 2004 General Election. A CM/GC Contractor can assist during the design process with phasing of work to meet the required schedule. Some items including the elevator have a long lead time for delivery. A CM/GC Contractor can order these items while final design is being completed allowing for timely delivery to avoid delay and the negative impact of inflation.

To meet time schedules and reduce cost it is essential to have a contractor with experience in commercial remodeling, construction during occupancy, and time critical project management.

- d. This exemption is in accord with the requirements of Multnomah County Public Contract Review Board rule AR 310-0220.

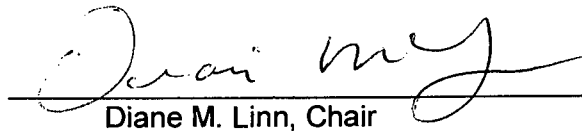
The Multnomah County Board of Commissioners, acting as the Public Contract Review Board, Orders:

That the contract for a CM/GC for the Elections Building Combined Upgrade Project be exempted from the formal competitive bidding process.

ADOPTED this 18th day of September, 2003.

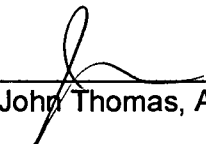


BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON, ACTING
AS THE PUBLIC CONTRACT REVIEW BOARD


Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
John Thomas, Assistant County Attorney

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: September 18, 2003

Agenda Item #: R-6

Est. Start Time: 10:35 AM

Date Submitted: 09/11/03

Requested Date: September 18, 2003

Time Requested: 15 mins

Department: Non-Departmental

Division: Chair's Office

Contact/s: Kathy Turner

Phone: 503.988.3308

Ext.: 83308

I/O Address: 503/600

Presenters: Chair Diane Linn

Agenda Title: RESOLUTION Consenting to Chair Appointment of Mary (Molly) Raphael as Director of the Multnomah County Library

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

1. What action are you requesting from the Board? What is the department/agency recommendation?

Consent to Appointment of Mary (Molly) Raphael as Director of Multnomah County Library.

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

Multnomah County Charter Section 6.10(3) provides that the Chair appointment of department directors is subject to consent of a majority of the Board.

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

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

If a budget modification, explain: n/a

- ❖ **What revenue is being changed and why?**
- ❖ **What budgets are increased/decreased?**

- ❖ What do the changes accomplish?
- ❖ Do any personnel actions result from this budget modification? Explain.
- ❖ Is the revenue one-time-only in nature?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?

NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)

If a contingency request, explain: n/a

- ❖ Why was the expenditure not included in the annual budget process?
- ❖ What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?
- ❖ Why are no other department/agency fund sources available?
- ❖ Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.
- ❖ Has this request been made before? When? What was the outcome?

If grant application/notice of intent, explain: n/a

- ❖ Who is the granting agency?
- ❖ Specify grant requirements and goals.
- ❖ Explain grant funding detail – is this a one time only or long term commitment?
- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

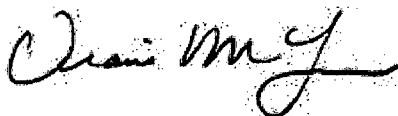
4. Explain any legal and/or policy issues involved.

An offer of employment and compensation has been made and agreed to. Legal counsel has advised that if a majority of the Commissioners choose not to consent to the appointment on the terms offered, the County faces potential liability.

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

In March 2003 Multnomah County formally opened a search for a permanent Library Director. To assist in this search the services of a search firm was engaged to help recruit candidates. The Chair's office appointed a Search Committee to assist in determining the needs of the County and the community regarding this position, assist in identifying qualified candidates that would be a "match" for our system, interviewing candidates, and then giving the Chair their observations and opinions regarding the candidates. During this process a public and staff forum was held as well as other meetings for employees that included a meeting with Local 88, external stakeholder groups that included the Friends and Foundation, the Library Advisory Board, and the County Commissioners leading up to the appointment.

Required Signatures:



Department/Agency Director: _____

Date: 09/11/03

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Consent to Chair Appointment of Mary (Molly) Raphael as Director of the Multnomah County Library

The Multnomah County Board of Commissioners Finds:

- a. Multnomah County Charter Section 6.10(3) provides that Chair appointment of department heads (directors) is subject to consent of a majority of the Board.
- b. The Chair appoints Mary (Molly) Raphael as Director of the Multnomah County Library beginning November 24, 2003.

The Multnomah County Board of Commissioners Resolves:

1. In accordance with Multnomah County Charter Section 6.10(3), the Board consents to the appointment of Mary (Molly) Raphael as Director of the Multnomah County Library.

ADOPTED this 18th day of September, 2003.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By



Agnes Sowle, County Attorney

BOGSTAD Deborah L

From: TURNER Kathy G
Sent: Wednesday, September 17, 2003 3:24 PM
To: BALL John; CRUZ Serena M; LINN Diane M; NAITO Lisa H; ROBERTS Lonnie J; ROJO DE STEFFEY Maria; CARROLL Mary P; COMITO Charlotte A; NAITO Terri W; ROMERO Shelli D; TURNER Kathy G; WALKER Gary R
Cc: BOGSTAD Deborah L
Subject: FW: amendment

See attached and fyi to Deb. Who will propose the amendment?
Commissioner Cruz? Let me know and thanks.

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

From: SOWLE Agnes
Sent: Wednesday, September 17, 2003 3:14 PM
To: TURNER Kathy G
Subject: amendment

here is the amended Resolution. Once decided upon, it should go to Deb.

The commissioner who amends should say

I move to amend the resolution to include the following words at the end of the resolution (item 1) at the salary of \$120,000.



Library-Dir-appointm
entres ame...

Agnes Sowle
Multnomah County Attorney
501 SE Hawthorne Blvd., Ste. 500
Portland, OR 97214
(503)988-3138

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 9-18-03

SUBJECT: R6 / Library Director Molly Raphael

AGENDA NUMBER OR TOPIC: _____

FOR: _____ AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Craig Capling

ADDRESS: 6515 SW 32nd Ave

CITY/STATE/ZIP: Portland, OR 97239

PHONE: _____ DAYS: _____ EVES: _____

EMAIL: _____ FAX: _____

SPECIFIC ISSUE: _____

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

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

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

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

- Multnomah County's Library System is something to be celebrated.
- We rank No. 1 in annual circulation of books among all public libraries serving populations of 500,000 to 1 million.
- In 2002, residents checked out 16.1 million items or over 24 books for every man, woman, and child in Multnomah County, an indicator that the Multnomah County library system is one of the nation's busiest.
- Our libraries are well loved and well used and it continues to be one of my top priorities that we remain a world class system that provides an exceptional level of service to our neighborhoods and our community.
- In order to maintain such as system, we need a talented and capable person who has a proven history in library management and bringing necessary resources into a public system.
- Our community needs and deserves nationally recognized leadership in our libraries.
- Molly Raphael is that person.
- Molly has worked through the ranks of the DC Library system over the past 30 years.
- She knows the ins and outs of public libraries, has a demonstrated track record in attracting outside resources and partnering with the community and private sector to expand library services to those who have been historically underserved.

- I am pleased and proud to bring this appointment to the Board.
- I am discouraged that this appointment has drawn some controversy.
- And hope that Molly and this community understand that the debate is not about the merits of the candidate.
- I remain confident in my decision regarding the compensation package for the incoming Library Director.
- In my role as Chief Executive it is my job to negotiate personnel matters and set salaries for county department directors.
- However, members of the Board of County Commissioners have made it clear that they will not support the appointment of the new Director at the offered and accepted level.
- I acknowledge and appreciate their concern.
- In a tough economy, a public discussion of managerial salaries is bound to get sticky.
- And it's a hard sell to many who are working hard to make ends meet or who are looking for work.
- The truth is whether we like it or not, we live and operate in a market economy.
- We have to divorce our personal feelings and initial reactions to how we think some one should be compensated and understand that in order to be competitive and offer just

compensation that is comparable to other systems around the country, we have to be prepared make in an investment.

- Investment in proven leadership is one of the most important things this jurisdiction can do.
- I understand that the Board isn't willing to appoint this position at the offered and accepted salary level.
- I can't risk this organization missing the opportunity to have a high caliber leader of our libraries.
- But it's also important to me that our Library Director be compensated – again based on a market rate and national standards – for the important job she will be doing and that the county fulfill the promise made to Molly.
- In order to achieve both goals, I have been working with the Board of Commissioners to reach a compromise, which would include their support for Molly's permanent appointment at a cost to the county that is below the agreed upon salary level.
- I have outreached to our private non-profit partners and asked that they help make up the difference between what the three members of the Board are willing to pay and what the agreed upon salary level is.
- They have generously agreed.
- We are proposing a rational, creative solution and have applied our very best thinking and hours of hard work on this proposed compromise.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 03-134

Consent to Chair Appointment of Mary (Molly) Raphael as Director of the Multnomah County Library

The Multnomah County Board of Commissioners Finds:

- a. Multnomah County Charter Section 6.10(3) provides that Chair appointment of department heads (directors) is subject to consent of a majority of the Board.
- b. The Chair appoints Mary (Molly) Raphael as Director of the Multnomah County Library beginning November 24, 2003.

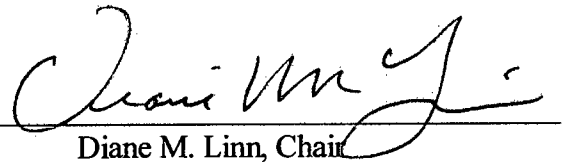
The Multnomah County Board of Commissioners Resolves:

1. In accordance with Multnomah County Charter Section 6.10(3), the Board consents to the appointment of Mary (Molly) Raphael as Director of the Multnomah County Library at the salary of \$120,000.

ADOPTED this 18th day of September, 2003.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Agnes Sowle, County Attorney