



Multnomah County Oregon

# Board of Commissioners & Agenda

connecting citizens with information and services

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## OCTOBER 4 & 6, 2005 BOARD MEETINGS FASTLOOK AGENDA ITEMS OF INTEREST

Pg 2	9:30 a.m. Tuesday Sheriff's Office Operations and Policy Issues
Pg 2	9:45 a.m. Tuesday Briefing on Gorge Commission Hearing on Viewpoint Inn
Pg 2	10:00 a.m. Tuesday Work Session on Countywide Impact of State Funding Reductions in FY 2005-2007
Pg 2	11:30 a.m. Tuesday Executive Session
Pg 3	9:30 a.m. Thursday IT Audit Presentation
Pg 3	9:45 a.m. Thursday SIP/Microchip Report
Pg 3	10:15 a.m. Thursday Steffanoff ITAX Hearing
Pg 4	11:05 a.m. Thursday Resolution Authorizing Transfer of Artifacts to the Chinese Consolidated Benevolent Association

Thursday meetings of the Multnomah County Board of Commissioners are cable-cast live and taped and may be seen by Cable subscribers in Multnomah County at the following times:

Thursday, 9:30 AM, (LIVE) Channel 30  
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Saturday, 10:00 AM, Channel 30  
Sunday, 11:00 AM, Channel 30  
Produced through Multnomah Community Television

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Tuesday, October 4, 2005 - 9:30 AM  
Multnomah Building, First Floor Commissioners Boardroom 100  
501 SE Hawthorne Boulevard, Portland

## **BOARD BRIEFINGS/WORK SESSION**

- B-1 Update on Multnomah County Sheriff's Office Operations and Policy Issues: Transition Services for the Homeless Population. Presented by Sheriff Bernie Giusto, Christine Kirk Gary Simmons and Others. 15-30 MINUTES REQUESTED.
- B-2 Briefing on Upcoming Gorge Commission Hearing to Consider the Viewpoint Inn Plan Amendment Application. Presented by Derrick Tokos. 15 MINUTES REQUESTED.
- WS-1 Work Session to Consider Countywide Impact of State Funding Reductions in the Fiscal Year 2005-2007. Presented by Dave Boyer, Karyne Dargan, Department Directors, Invited Others. 90 MINUTES REQUESTED.
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Tuesday, October 4, 2005 - 11:30 AM  
**(OR IMMEDIATELY FOLLOWING BRIEFINGS/WORK SESSION)**  
Multnomah Building, First Floor Commissioners Conference Room 112  
501 SE Hawthorne Boulevard, Portland

## **EXECUTIVE SESSION**

- E-1 The Multnomah County Board of Commissioners Will Meet in Executive Session Pursuant to ORS 192.660(2)(h). Only Representatives of the News Media and Designated Staff are allowed to Attend. Representatives of the News Media and All Other Attendees are Specifically Directed Not to Disclose Information that is the Subject of the Executive Session. No Final Decision will be made in the Executive Session. Presented by Agnes Sowle and Invited Others. 15-30 MINUTES REQUESTED.

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

## **REGULAR MEETING**

### **REGULAR AGENDA - 9:30 AM**

### **PUBLIC COMMENT - 9:30 AM**

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

### **NON-DEPARTMENTAL - 9:30 AM**

- R-1 September 2005 Audit on Multnomah County Information Technology. Presented by Suzanne Flynn. 15 MINUTES REQUESTED.
- R-2 Annual Report on the Multnomah County Strategic Investment Program's Microchip Technology Inc. Presented by Rob Fussell and Kathy Clevenger. 30 MINUTES REQUESTED.
- R-3 Authorizing Settlement of Alpha Energy Savers, Inc. and Robert Obrist v. Multnomah County, Diane Hansen, and Judy Swendsen [USDC CV 01-1363 KI]
- R-4 PUBLIC HEARING and Board Decision of Taxpayers Denué (Nick) Steffanoff and Karen Steffanoff's Appeal of the Administrator's Final Determination Regarding their 2004 Multnomah County Income Tax (ITAX) Obligations Pursuant to ITAX Administrative Rule 11-614 (Continued from September 22, 2005)

### **DEPARTMENT OF COUNTY HUMAN SERVICES - 10:30 AM**

- R-5 RESOLUTION Designating the DUII Evaluation Program of the Multnomah County Department of County Human Services Mental Health and Addiction Services Division as the Agency to Perform Screening Interviews and Diagnostic Assessments for Purposes of the Driving Under the Influence of Intoxicants Statute and Approving of Evaluation Fees and Fee Waivers

R-6 Budget Modification DCHS-08 Appropriating \$88,307 in the Fed/State Fund Due to Senate Bill 114 (Increasing the A&D DUII Fee to \$150) and Shifting a Like General Fund Appropriation from DCHS to the General Fund Contingency

**DEPARTMENT OF LIBRARY SERVICES - 10:35 AM**

R-7 NOTICE OF INTENT to Apply for a Gates Foundation Grant from the Oregon State Library for "Staying Connected"

**DEPARTMENT OF COUNTY MANAGEMENT - 10:40 AM**

R-8 RESOLUTION Approving Salary Adjustment for Multnomah County District Attorney

R-9 First Reading of a Proposed ORDINANCE Amending Multnomah County Code Chapter 12.100 Doing Business Definition, Retroactive to August 19, 2004

R-10 Budget Modification DCM-03 Authorizing Various Personnel Actions in Accounting, Budget Office, Human Resources, Chief Financial Officer's Office, Central Procurement and Contract Administration and Facilities

R-11 RESOLUTION Approving the Sale of the Medical Examiners Building Located at 301 NE Knott, Portland to Knott Street Medical, LLC and Authorizing County Chair to Execute Appropriate Documents to Complete the Sale

**NON-DEPARTMENTAL - 10:55 AM**

R-12 RESOLUTION Authorizing Transfer of Title to the Morrison Property

R-13 RESOLUTION Authorizing Transfer of Artifacts to the Chinese Consolidated Benevolent Association



## **Diane Linn, Multnomah County Chair**

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### **MEMORANDUM**

**TO:** Board of County Commissioners  
Deb Bogstad, Board Clerk  
**FROM:** Darcy Miles, Staff Assistant  
**DATE :** October 6, 2005  
**RE:** Chair's Absence from Board Meeting

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Chair Linn will miss the Thursday October 6, 2005 Board Meeting due to illness.

c: Chair's Office



# MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS  
501 S.E. HAWTHORNE BLVD, Suite 600  
PORTLAND, OREGON 97204  
(503) 988-5217

LISA NAITO • DISTRICT 3 COMMISSIONER

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## MEMORANDUM

TO: Chair Diane Linn  
Commissioner Maria Rojo de Steffey  
Commissioner Serena Cruz  
Commissioner Lonnie Roberts  
Board Clerk Deb Bogstad

FROM: Carol Wessinger  
Staff to Commissioner Lisa Naito

DATE: September 16, 2005

RE: Board Meeting Excuse

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Commissioner Naito will be unable to attend the October 4, 2005 Board Briefing, and the October 6, 2005 and October 13, 2005 Board meetings. Commissioner Naito will be out of the country.

Thank you,  
Carol Wessinger

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: 10/6/05

SUBJECT: Non-agenda - Countywide Impact  
of State Funding Reductions

AGENDA NUMBER OR TOPIC: n/a

FOR: \_\_\_\_\_ AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Kelly Huotari

ADDRESS: 3216 NE Everett Street

CITY/STATE/ZIP: Portland OR 97232

PHONE: DAYS: 503 318 2960

EVES: 503 239 5383

EMAIL: Khuotari@aol.com

FAX: n/a

SPECIFIC ISSUE: funding CCFC Community Outreach  
& Education Coordinator position

WRITTEN TESTIMONY: Discussing outreach campaigns/  
results

**IF YOU WISH TO ADDRESS THE BOARD:**

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

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

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



**MULTNOMAH COUNTY  
AGENDA PLACEMENT REQUEST**

**Board Clerk Use Only**

**Meeting Date:** 10/06/05  
**Agenda Item #:** R-1  
**Est. Start Time:** 9:30 AM  
**Date Submitted:** 09/28/05

**BUDGET MODIFICATION:** -

**Agenda Title:** **September 2005 Multnomah County Audit on Information Technology**

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

<b>Date Requested:</b>	<u>October 6, 2005</u>	<b>Time Requested:</b>	<u>15 minutes</u>
<b>Department:</b>	<u>Non-Departmental</u>	<b>Division:</b>	<u>Auditor - Suzanne Flynn</u>
<b>Contact(s):</b>	<u>Judy Rosenberger</u>		
<b>Phone:</b>	<u>503 988-3320</u>	<b>Ext.:</b>	<u>83320</u>
		<b>I/O Address:</b>	<u>503/601</u>
<b>Presenter(s):</b>	<u>Suzanne Flynn</u>		

**General Information**

1. **What action are you requesting from the Board?**  
Board Briefing
2. **Please provide sufficient background information for the Board and the public to understand this issue.**  
The County Auditor will review a recent audit that was conducted regarding the management of PC assets and software in the County.
3. **Explain the fiscal impact (current year and ongoing).**
4. **Explain any legal and/or policy issues involved.**
5. **Explain any citizen and/or other government participation that has or will take place.**

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**Required Signatures**

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**Department/  
Agency Director:**



**Date:** 09/28/05

**Budget Analyst:**

**Date:**

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**

# Information Technology

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Improve Inventories and Software Management

September 2005

Suzanne Flynn  
Multnomah County Auditor

Audit Staff  
Judith DeVilliers  
Mark Ulanowicz



**SUZANNE FLYNN, Auditor**  
**Multnomah County**

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Date: September 28, 2005

To: Diane Linn, Multnomah County Chair  
Maria Rojo de Steffey, Commissioner, District 1  
Serena Cruz, Commissioner, District 2  
Lisa Naito, Commissioner, District 3  
Lonnie Roberts, Commissioner, District 4

From: Suzanne Flynn, Multnomah County Auditor

Subject: Management of Personal Computers and Software

The attached report covers our audit of the County's management of Personal Computer (PC) inventories and software. This audit was included in our FY05-06 Audit Schedule.

As noted in the audit, both information technology and the Information Technology organization (IT) have undergone tremendous change in the last few years. The number of PCs and the size of the network in the County have increased dramatically. Generally, we found that IT had done a good job in managing the change and supporting the County's resource needs. This audit focuses on a few areas that need improvement:

- Increased accountability of PCs as assets
- More efficient deployment of software
- Better coordination between IT and departments in using Microsoft Access to create databases

We have discussed our findings and recommendations with management in the Department of County Management and IT. A formal follow-up to this audit will be scheduled within 1-2 years.

We would like to acknowledge and thank the management and staff in the Information Technology organization for the cooperation and assistance extended to us.

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## Summary

Personal computers (PCs) have quickly become an integral part of the County workplace. They provide an essential means of communication and access to information as well as a more efficient tool to complete work tasks. The number of PCs in the County has increased dramatically, from 2,400 in FY96 to 4,800 in FY05.

The County's Information Technology organization (IT) has taken steps in the past few years to better manage its complex system of PCs and software. In 1996, IT completed a strategic plan that provided for expanding the use of technology and also recognized the importance of standardization Countywide. Since then, the County has standardized hardware, operating systems, and software. In FY02, IT staff in departments were reassigned to the central IT organization in an effort to improve services and reduce costs.

The purpose of this audit was to determine how PC and software inventories were managed and the risks posed by databases created on PCs using Microsoft Access. The audit was limited to general use commercial software and excluded the Sheriff's and District Attorney's Offices because IT does not manage technology for these agencies.

We found that while IT managed PCs for the purposes of identifying workload, it did not adequately inventory them for asset protection. Asset management provides financial accountability and identifies custodial responsibility, as well as establishing a record of all purchases, the location of the assets, and the disposition when the asset is discarded. There is a Countywide asset management system administered by the Finance Division; however, it includes only assets with individual values of over \$5,000. PCs fall below this value. Prior to the centralization of IT services, asset management of PCs had been a departmental responsibility. Since centralization, this new role for IT has not been fully implemented.

Historically, software was purchased individually by departments. The County could save money and better manage software license compliance if it managed software on a Countywide basis. There is currently no inventory of software on its PCs, which makes ensuring compliance with licensing agreements difficult. We also sampled 29 software packages and from that sample estimated the value of these unused licenses to be about \$160,000. The County could capture more savings if it redistributed unused software among departments in the County rather than purchasing new.

IT is responsible for providing hardware, software, and services to departments. Departments can also independently purchase and develop specialized software and run it on the County's network. In some cases, it appeared that programs (and departments) were not taking into account the impact of independent software usage decisions on total system costs and, as a result, decreased system efficiency for the County as a whole. Sometimes individual programs with time constraints must move quickly to deliver services. However, the County needs a more methodical review of these decisions to determine the potential impact on all operations.

We recommend that IT work with the departments to better document business needs, user requirements, and the use of County PCs. The County should create an inventory of PCs and better manage software and licensing. To reduce the risk of department-created databases increasing County costs, the departments and IT should develop minimum standards for database applications.

## Background

In today's technical environment, personal computers (PCs) serve as a communications link sometimes replacing mail and telephone contacts with email and the Internet. Today, nearly every County employee has a PC or access to one to do his/her regular work. The County also has computers available to citizens in the libraries and other locations to provide access to information and the ability to review public records.

Employees use PCs for a wide range of work, from checking email to engineering design work. Most County PCs have Microsoft Office software along with various other commercial software applications as needed. In addition to allowing access to email and the Internet, the County's systems connect and share information with multiple outside organizations and other governments.

The number of PCs in the County has increased dramatically in the last ten years. In FY96, there were approximately 2,400 PCs in the County, with only half connected to one of 30 Local Area Networks (LANs). In FY05, the County's information system was a complex network located in 105 sites with 4,800 computers.

PCs to Total FTE  
FY96 to FY05

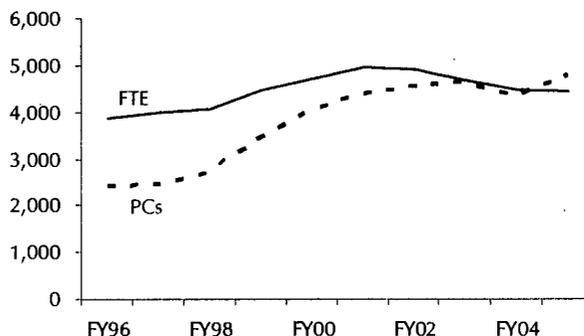


Exhibit 1

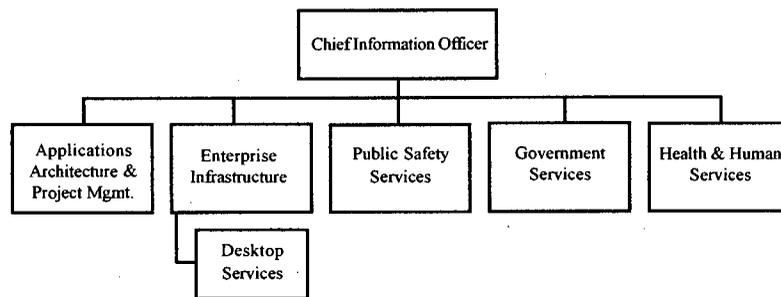
Source: Auditor's Office based on County records

The number of employees and the amount of expenditure required to maintain and expand the County's ability to take advantage of new technology have also increased. In FY96, half of the Information Technology (IT) staff, 58 employees, were in the Information Services Division's budget and half of the staff, 60 employees, were included in departmental budgets. In FY02, the County reorganized and combined all department information technology staff into one central organization under the Department of Business & Community Services. For FY05, the Information Technology budget was at \$41 million with the equivalent of 169 full-time employees (FTE).

Because IT activities were spread throughout the County and not centralized prior to FY02, we were unable to determine historical information on expenditures. Even now, actual expenditures on information technology are higher than the IT budget because departments still have staff providing IT services.

The Information Technology organization is divided into five major functional areas. Two of the areas have Countywide responsibilities while the other three areas are generally dedicated to specific service groups within the County. Management of PCs and the software is included in the Enterprise Infrastructure Unit. Software maintenance and development that is specific to a department function is the responsibility of the Government Services, Health and Human Services, and Public Safety Services Divisions.

Exhibit 2



### Scope and methodology

The objective of this audit was to determine how PCs and software inventories were managed and the risks posed by databases created on PCs using Microsoft Access. Our look at software was limited to general use "out of the box" commercial software and did not include specially designed software used for specific purposes. The Sheriff's and District Attorney's Offices were also excluded because IT does not manage technology for these agencies.

We researched best practices, reviewed County policies and rules relating to computers and software, and reviewed budget and accounting records. We interviewed IT and departmental management and staff involved with PC and software activities. We accessed information and research from Gartner Research, which is a nationally recognized information technology research organization. We used software reporting available through the IT organization that provided us information about all computers that log into the LAN, and accessed IT reports that combine two other sources of data for more complete information about who is using computers. We reviewed IT reports about usage of selected software on PCs.

This audit was included in our FY05 audit schedule and was conducted in accordance with generally accepted government auditing standards.

## Audit Results

IT is making progress

Managing a complex system of computers and software requires planning and the support of both staff and technology. The first steps the County took in managing its PCs were part of the IT strategic plan developed in 1996. The plan not only provided for funding and increasing technology, but also recognized the importance of standardization Countywide. The strategic plan created committees to work on specific areas, a process for better communication among departments, and Countywide standards. The Flat Fee Program was established to provide a way for departments to budget for PC replacement over an extended period and to pay for software licensing. During the last ten years, other standards were created for hardware, operating systems, and additional software.

In FY02, IT staff in departments were assigned to the central IT organization in an effort to improve IT services and reduce costs. Since then, efforts have continued to standardize purchasing of computers and hardware, operating systems, and commonly used software. The County's desktop management program is following best practices in areas of standardization and cost controls.

The challenge IT had to face during the last ten years was to balance the need for efficiency and continue to provide needed services so departments could do their jobs effectively. The challenge continues as IT Desktop Services begins the move from PCs for every employee to a thin client system, which means software and computing runs centrally rather than on the desktop PC.

Best practices suggest that the change process should include steps to understand user requirements and business needs. During the course of our audit we had difficulty even identifying the location and users of County PCs. For this reason, IT must make efforts to gain a better understanding of who is using PCs and how they are being used if the conversion to thin client is to be successful.

Management of personal computers as assets is not adequate

An inventory of PCs can serve more than one purpose. The adequacy of the inventory depends upon the purpose it serves. One such purpose (inventory and configuration management) is related to managing PCs as a system to reduce costs and improve security. The County is managing desktop services using best practices with this type of inventory.

PC inventory as "asset management" is performed from a business and procurement perspective. IT currently has no inventory of County PCs for this purpose. Asset management provides financial accountability and allows IT to recover all costs for managing County PC systems. An inventory for asset management would reflect purchases, installation and location, custodial responsibility, and disposition when the asset is discarded. The County has an asset management system administered

by the Finance Division; however, it includes only assets with individual values of over \$5,000. Personal computers fall below this value.

Asset management is a new role for IT Desktop Services. Prior to IT centralization, asset management was a department responsibility and was managed differently by each department. For example, the Department of Community Justice (DCJ) maintained an asset inventory for all computers, servers, printers, and other related equipment. DCJ's inventory included purchases, installation and location, custodial responsibility, and disposition for all computers. Some other departments had lists of computers, but these did not include all the information that would be expected for asset management.

IT accounts for PCs in two ways. One is from the use of specialized software (SMS) and the other is through the Flat Fee Program.

- SMS is software used to discover, inventory, and configure PCs. It can track and provide useful information on all County PCs that are connected to the County network. This information includes hardware configurations, computer operating systems, installed software, and usage statistics for software.
- The Flat Fee Program charges departments annually to accrue revenues to purchase PC replacements and for software licensing. It only charges for those PCs that the departments report to IT.

We compared the inventories from the Flat Fee Program to the actual count using SMS. Using this software we were able to identify computers by department. However, SMS has some restrictions as it can only detect and report on computers when they are logged into the LAN. PCs such as laptops and stand-alone computers may not be included. For example, if an employee is on vacation or does not use his or her computer, it will not be detected by SMS. According to IT, there is a great deal of change in the County's PCs due to reorganizations, staff changes, computer upgrades, and replacements.

IT used the number of PCs in the Flat Fee Program as the principal basis for billing desktop services when IT became centralized. We found the inventory count used for PC replacement to be unreliable. Over 6% of the computers we found on the SMS inventory were not included in the Flat Fee Program. As a result, \$470,000 in Desktop Services may not be billed to the correct departments because of underestimates of the number of computers being managed.

There are several reasons for the difference between the PC count in the Flat Fee Program and the actual numbers. Many departments do not include all PCs in the Flat Fee Program because they were purchased through grants or other funding sources or because they do not intend to replace them. Non-profits operating in County buildings have PCs which are serviced by IT Desktop Services, but have not been included in the Flat Fee Program. Some departments may mistakenly underestimate the number of PCs, causing fewer dollars to be available for replacement and money to be spent from their operating budget. One department in

particular had large variances in PCs included in Flat Fee Program from year to year.

The County needs to create and maintain an inventory to improve accountability for its PCs and to provide an accurate count for cost recovery for desktop services charged to departments. IT management stated that inventory control is complicated for the County because there is a great deal of movement of both employees and computers. It is for this very reason that an asset management system is important. We also recognize that this formerly was a department responsibility. However, we believe managing the County's PCs as a Countywide system would be more efficient. IT Desktop Services is in a better position to manage the PC inventory than individual departments.

Although an asset inventory system may be complex, there are a number of software products designed for this. The system created by DCJ would also be a reliable model. The most important feature of such a system is that all computers are included regardless of funding source or whether the computer is to be replaced. This system could then be a reliable source for both accountability and also for accurate billing for desktop services.

County software is  
not used efficiently

County employees regularly use software to complete their work whether it is producing written documents, accounting for expenditures, or tracking the delivery of services. We analyzed what software was installed on County computers as well as how often some of the software was being used. As part of the audit we also reviewed a list of all applications installed on County PCs and generally found no suspicious software that may be unauthorized.

The County could save money by managing software on a Countywide basis rather than departmentally and could improve compliance with licensing restrictions. We sampled 29 software packages. Most were analyzed for a ten month period; a few were analyzed for a three month period. We estimated the value of the unused licenses for this sample to be about \$160,000. Redistributing unused software to other users could also result in savings if software was managed as a Countywide resource. Further savings might result if IT could purchase multi-user licenses and distribute them as needed.

With the exception of DCJ, the County is lacking an inventory of its software as well as its PCs. Historically, software was purchased individually by departments. More recently, IT has done purchasing and installation of software for departments. An accurate inventory is essential for managing the County's software and taking advantage of saving dollars by sharing and reusing licenses whenever possible.

It is also becoming more important to have an accurate inventory because software companies are increasing audits to insure that all software is licensed. During our audit, we found nearly 500 computers with software which may not be licensed. We referred the matter to IT management, which is working to remedy the situation. We believe licensing compliance should be a priority for the County and that the

solution would be to purchase the necessary licenses, redistribute licenses from unused PCs or remove the software from these computers as soon as possible.

IT not always consulted on departments' software use

The County's IT organization is responsible for providing information technology hardware, software, and services to departments. Staff can use the array of tools IT makes available in any way that works to fulfill their responsibilities. Departments can also independently purchase or develop specialized software and run it on the County's network.

We found that the extent to which program staff consult with IT staff regarding the appropriateness or compatibility of new software or expanded use of existing software varied. The extent to which these decisions affected larger department and County IT priorities also varied. In some cases, it appeared that programs (and departments) were not taking into account the full effect of these decisions and the result was increased costs and decreased system efficiency.

Microsoft (MS) Access-based applications are a good example of the sort of application that has been developed by program staffs on their own. MS Access is popular with County employees for a variety of reasons:

- MS Access is installed on all County computers, so building databases using Access does not require resources beyond staff time.
- Access is useful for many County programs that need to manage data.
- Many County employees have skills necessary to build databases in Access without requiring technical assistance from IT. Moreover, because it is so commonly used, it is relatively easy for many different people to use.
- It is easy for the County to help or receive help from other jurisdictions and to share Access-based applications that work for particular tasks.

The decision to create an Access-based application may also be the result of the limited number of practical alternatives for program staff. For example, the data and analysis tools staff need to do their job may be available with larger, more sophisticated applications that the County already owns, such as the enterprise-wide management system SAP, but most program staff do not have the expertise to use it properly. Additionally, departments may not have the resources to either purchase the necessary IT support or provide the necessary training for their staff. Knowing that the job must be done, Access-based applications may appear to be the best alternative, even though they may create higher costs in the future.

Departmental use of Access databases can affect IT resources

Because Access is relatively easy to use and data management is such a large part of many County program activities, it is not uncommon for Access databases to become central to a program's success. We found thousands of Access databases on the County network. In the

Health Department alone, we found at least 40 databases that were critical to a program completing its work, contained sensitive data, or both. Examples of these include the Communicable Disease surveillance and the Environmental Health food safety databases.

While MS Access can be a powerful tool for data management, it also has some significant technical limitations.

- MS Access-based applications do not work well when they are shared across the wide-area network, which limits their usefulness and limits access to the data.
- Access-based applications are not very secure. There is no logging or audit functionality that would allow data entries and modifications to be tracked. Such a limitation may prove to be a violation of Health Insurance Portability and Accountability Act (HIPAA) security requirements for electronic health information.
- Microsoft's long-term plans for supporting MS Access are unclear. The company recommends that Access only be used to create simplistic systems for use by an individual or small work group.

With IT resources essentially being fixed, there is a risk that the additional support needed to keep some of these applications running could drain resources from higher priority projects within the department. The severity of the risk posed by these applications depends on a variety of factors, such as the level of documentation and the overall complexity.

- Because Access is easy to use, it can be modified by any number of employees and changes, as well as the original design, are frequently not documented. The knowledge resides with the person that built it and if that person leaves the County, it will be difficult to fix problems.
- Databases built by contractors cause many of the same problems – lack of documentation of the original development as well as undocumented changes – and frequently posed an additional problem in that they tend to be more complex.
- Departments have not always upgraded applications in a timely manner, if at all. Not upgrading increased the complexity of regularly scheduled upgrades of the department's other software and hardware.

For example, IT delayed an upgrade to the Windows XP operating system in one department due to the number of employees using Access databases that were built and run on an older version. This delay slowed the County's efforts to create consistency and uniformity in its software and hardware. Moreover, the computers running the older software in addition to the County's standard MS Office suite require two MS Access licenses instead of just one.

Departments and IT can alleviate some of the problems caused by using Access by moving the application to a different program or replacing it altogether. However, conversion or replacement may prove to be costly.

According to IT, it took about 120 hours to perform a conversion of the data tables of one relatively simple Access-based application, which translated into a cost of approximately \$3,600. More complex conversions or replacements are significantly more expensive. For example, IT staff is currently working on replacing an Access-based system at Land Use and Transportation with a commercial off-the-shelf package. While the two systems are not perfectly comparable—the new application has a greater scope of function than the system it is replacing—the cost of the project is estimated to be around \$75,000.

## Recommendations

1. To better understand the needs of computer users in the County, IT should work with the departments to document business needs, user requirements, and who is using County PCs.
2. To better manage and account for computer hardware, the County should create an inventory that includes the following:
  - Purchase date and cost
  - Physical custody and responsibility
  - Physical location
  - Disposition
3. To improve security and accountability, the County should document computers owned or used by non-profits or contractors located in County buildings that have access to the County's LAN, including whether IT support is provided to those computers.
4. To better manage software and licensing, the County should create an inventory of software and a means to share software Countywide.
5. To improve the quality of database management, IT and department management should adopt minimum standards for database applications.
6. IT and department management should work together to identify high priority Access-based applications and use a cost-benefit approach to determine where it is appropriate to develop a plan for conversion or replacement.

**Responses to  
the Audit**



## Diane M. Linn, Multnomah County Chair

September 28, 2005

501 SE Hawthorne Blvd., Suite 600  
Portland, Oregon 97214  
Phone: (503) 988-3308  
Email: [mult.chair@co.multnomah.or.us](mailto:mult.chair@co.multnomah.or.us)

Suzanne Flynn  
Multnomah County Auditor  
501 SE Hawthorne, Room 601  
Portland, OR 97214

Dear Suzanne:

I have reviewed your audit of the County's Software and would like to thank you and your staff for your hard and valuable work. We are interested in ways to improve our oversight of software and this audit will assist us in that effort.

Multnomah County's Information Technology management is responsible for efficiently managing nearly 4,800 computers at over 100 locations. It is extremely important that the County continue to strive for improvement and efficiencies in managing our investment in technology.

As you have detailed in this audit, the need to better understand the needs of computer users and managing the personal computer inventory will assist us in purchasing and managing software licenses and improving the quality of database management. You have made recommendations that should help our staff to manage these investments more effectively.

I have discussed the audit and your recommendations with our Chief Financial Officer and Chief Information Officer and we agree that you have outlined some excellent suggestions in this audit.

Once again, I appreciate your continuing efforts in helping us identify ways to improve the operations of Multnomah County.

Sincerely,

Diane Linn  
Multnomah County Chair

c: Board of County Commissioners  
Dave Boyer, Chief Financial Officer  
Becky Porter, Chief Information Officer



**Department of County Management**

**MULTNOMAH COUNTY OREGON**

**Becky Porter, Chief Information Officer**

501 SE Hawthorne Blvd, Suite 400  
Portland, Oregon 97214  
503-988-5110

**Suzanne Flynn, Multnomah County Auditor**  
501 SE Hawthorne, Room 601  
Portland, OR 97214

Dear Suzanne,

I appreciate the opportunity to respond to the Software Audit that was recently conducted by you and your staff. Thank you for your acknowledgement of the progress that has been made in Information Technology over the last several years. The issues that have been raised are insightful and actionable. I would like to respond to the specific concerns below.

**Software license compliance**

It is essential that Multnomah County's software licenses be managed accurately. After your initial concern was raised in June regarding potential non-compliance, a team was assembled to ensure that Multnomah County is in compliance by September 30, 2005. The non-compliance involves PCs which run both old and current versions of MS Access simultaneously. For each PC with multiple versions of Access installed, requirements are being evaluated and the following actions taken:

- Determine whether the business need for an MS Access database can be met by other available business applications, such as SAP, EPIC, or Raintree. If so, the Access databases are removed from the PC and users are educated on alternative ways of accessing the required information
- Upgrade the MS Access database to the current version, if possible, before September 30
- Purchase additional licenses where neither option above is feasible

IT will provide confirmation of compliance after September 30.

**Asset Management of PCs and software**

Pending approval by the Board of County Commissioners on September 29, IT will proceed with a project to migrate the current PC inventory to thin client architecture. This architecture will address many of the concerns

noted about hardware and software tracking and utilization, both within the county and with business partners. A detailed analysis of each end user will be conducted to determine their personal computing needs and will provide an accurate baseline from which to manage our PC and software inventories moving forward. A determination will need to be made about the most effective way to track assets on an on-going basis that balances the investment required with the value of the items being tracked.

#### **Use of distributed databases**

Multnomah County currently uses thousands of MS Access databases. Access is being used for both transactional and analytical purposes. A detailed analysis of the business requirements driving the proliferation of these databases will be done to understand whether other applications and/or Business Intelligence solutions could meet the business needs with less cost and less risk than Access. Duplication of data is one contributor to a 65X growth rate in data storage requirements in the past 4 years at Multnomah County. Hitachi Consulting is currently engaged to do a baseline assessment of Multnomah County's portfolio of IT applications and services to identify and prioritize opportunities. A final report is due on October 31.

Kind Regards,

Becky Porter  
Chief Information Officer



**MULTNOMAH COUNTY  
AGENDA PLACEMENT REQUEST**

**Board Clerk Use Only**

**Meeting Date:** 10/06/05  
**Agenda Item #:** R-2  
**Est. Start Time:** 9:45 AM  
**Date Submitted:** 09/27/05

**BUDGET MODIFICATION:**

**Agenda Title:** **Annual Report on the Multnomah County Strategic Investment Program's  
Microchip Technology Inc.**

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

**Date Requested:** 10/06/05                      **Time Requested:** 30 Minutes  
**Department:** Non-Departmental                      **Division:** Chair's Office  
**Contact(s):** Rob Fussell, Interim Chief of Staff, Multnomah County Chair's Office  
**Phone:** 503-988-3971                      **Ext.** 83971                      **I/O Address:** 503/600  
**Presenter(s):** Rob Fussell, Kathy Clevenger - Microchip Director of Manufacturing, Gresham

**General Information**

**1. What action are you requesting from the Board?**

No Board action is requested.

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

Multnomah County and the City of Gresham entered into a Strategic Investment Program agreement with Microchip Technology Inc. in 2002. Per this agreement, Multnomah County is required to prepare an annual report to the public describing Microchip's compliance with the agreement. This briefing is an opportunity to present this report and update the Board and the public on activities occurring through the Strategic Investment Program. The public-private partnership has been successful and responsive in rehiring former Fujitsu employees and their involvement in community events and activities helps to bring economic stability to east county.

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

There is no fiscal impact related to this briefing.

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

N/A

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

N/A

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### Required Signatures

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Department/  
Agency Director:



Date: 09/27/2005

Budget Analyst:

Date:

Department HR:

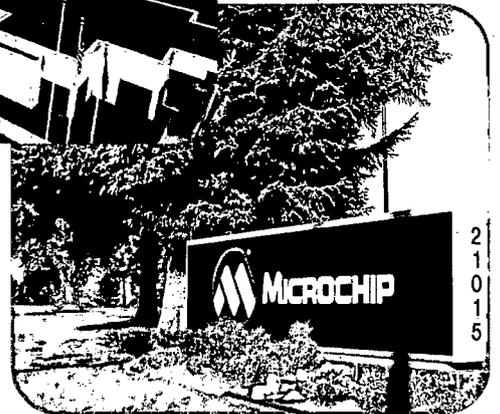
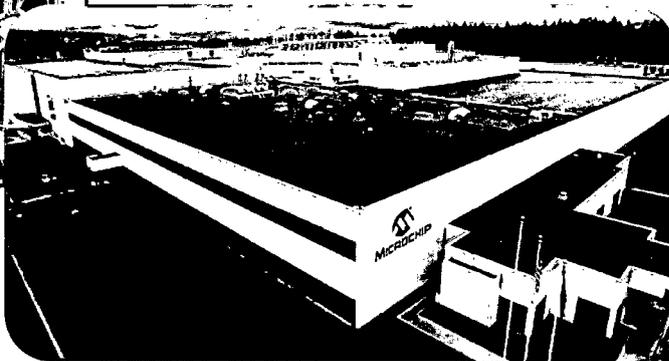
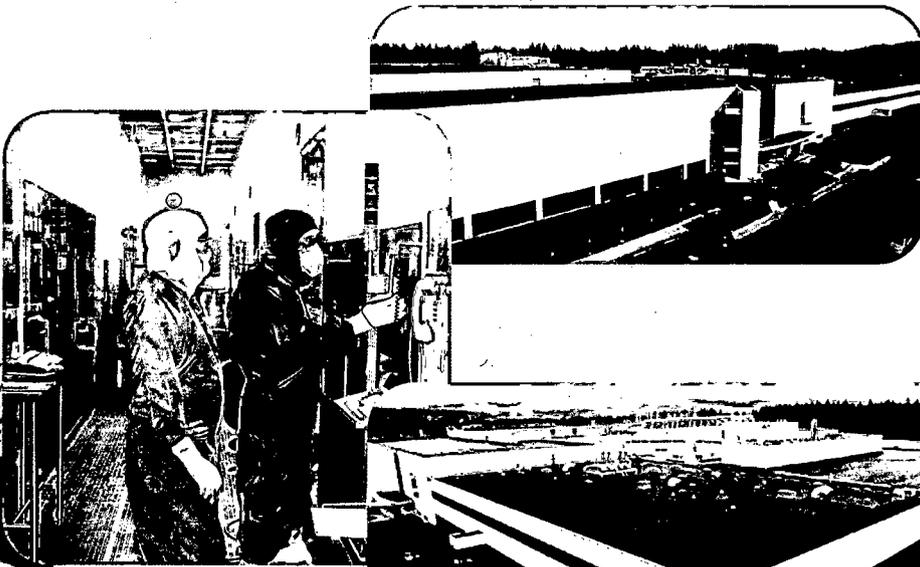
Date:

Countywide HR:

Date:

# Multnomah County

Strategic Investment Program  
Microchip Technology Inc.



Program Year One  
2004

Annual report on the Performance-Based Public-Private  
Partnership between Multnomah County, the City of  
Gresham, and Microchip Technology Inc.



This first report on the progress of the Strategic Investment Program (SIP) with Microchip Technology Inc. heralds a productive year of this public-private partnership resulting in benefits both to our community and industry.

The goals of the SIP agreement seek to create new and sustainable employment, invest in building a highly skilled world-class workforce, and encourage local purchasing of goods and services. Together with its pledge to environmental protection, Microchip Technology Inc. has demonstrated its commitment to these goals, which are summarized in this report.

Multnomah County, along with its state and local government partners is pleased with the continued benefits the Strategic Investment Program delivers to our region.

A handwritten signature in cursive script, reading "Diane M. Linn".

Diane M. Linn, Chair

Multnomah County Board of County Commissioners

*The Strategic Investment Program (SIP) was created by the Oregon Legislature in 1993 and was a benchmark for performance-based partnerships with high tech industry in East County. The SIP was created because of the extraordinarily high capital costs and resulting disproportionate property taxes associated with the investments in technology, manufacturing processes, and equipment necessary to design, develop, and manufacture semiconductors in the global market.*

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## INTRODUCTION

In 2001 as the microelectronics industry experienced the steepest decline in its history, Fujitsu Microelectronics, Inc. (FMI) decided to permanently close its Gresham plant. The City of Gresham and Fujitsu partnered to conduct a marketing campaign to sell the plant, and the firm of Colliers International (commercial real estate consultants) was employed to find a buyer. That buyer ultimately turned out to be Microchip Technology Inc. of Chandler, Arizona.

The SIP agreement with Microchip was executed in August, 2002 with a seven-year term and annual cap of \$490 million on the value of the property subject to tax relief. Any assessed value in excess of that amount would be taxed at the full rate.

The agreement was negotiated between Microchip, Multnomah County and the City of Gresham, in coordination with the Oregon Economic and Community Development Department.

The Finance Committee of the Oregon Economic and Community Development Commission also approved the agreement.



*from left to right: Kathy Clevenger (Director of Manufacturing, Fab 4); Dave Lambert (Vice President of Fab Operations); Diane Linn (Multnomah County Chair); and Bob Lloyd (Vice President of Site Services and Facilities Management)*

## ABOUT MICROCHIP

Microchip is headquartered in Chandler, Arizona with design, manufacturing, and sales operations in Asia, Europe, Japan, and the Americas. Founded in 1989, this publicly held company had sales of over \$845 million in the fiscal year ending 2005. It has over 3,900 employees worldwide with 30 separate sales offices.

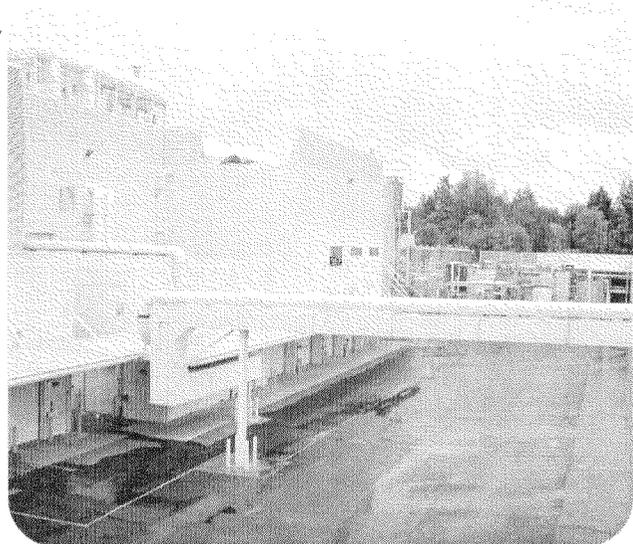
Manufacturing facilities are located in Chandler and Tempe, Arizona; Puyallup, Washington; Bangkok, Thailand; and Gresham, Oregon, and it has design centers in Bangalore, India; Lausanne, Switzerland; Mountain View, California, and Chandler, Arizona.

Microchip has a diversified client base. While not immune to the microelectronic industry's economic cycles, its electronic intelligence components supply a wide range of consumer products such as: garage door openers, remote-keyless-entry car door systems, and electronic thermostats. In addition, its "embedded" systems make machine tools, cameras, cellular phones, and

personal digital assistants more intelligent, efficient, and versatile.

Microchip's business model and customer base differs from its two predecessor SIP colleagues. While it manufactures microcontrollers, (as did LSI and Fujitsu) its products are more comprehensive and less susceptible to market swings. In addition, its diversified customer base helps insulate it from industry downturns.

Microchip's corporate culture embraces employee empowerment, innovation, and diversity. Its employees work in an atmosphere where they can make full use of their abilities regardless of their race, color, religion, sex, age, national origin, marital status, disability, or Veteran status.



## PERFORMANCE AT A GLANCE

Performance Requirements per SIP contract	MEETS	EXCEEDS	CORRECTION REQUIRED
<b>Employment</b>			
- Wages	✓✓		
- Benefits	✓✓		
- Hiring		✓✓	
- Transportation		✓✓	
<b>Job Training</b>			
- Training and Retention	✓✓		
- Mount Hood Community College	✓✓		
- Center for Advanced Learning	✓✓		
- Local High School	✓✓		
<b>Local Procurement</b>			
- Purchasing of Local Goods and Services	✓		
<b>Environmental Protection</b>			
- Identify Baseline Conditions	✓✓		
- Oregon Green Permit Program	✓✓		
- Violation Requirements	✓✓		

## SIP PERFORMANCE REPORTING

Similar to prior SIP agreements, contractual performance standards and community benefits were established based on County goals for Employment, Job Training, Local Procurement, Environmental Management Plan and Cleanup.

Specific requirements and detail related to each subject can be found in the August 15, 2002 signed contract.

### 1. EMPLOYMENT

*County Goal: to create long term jobs with family wages, benefits, and working conditions for County residents or creation of a full spectrum of jobs for residents of Multnomah County who are unemployed or*

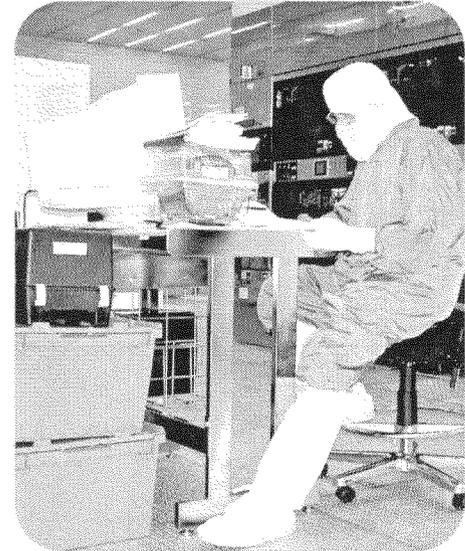
*underemployed, with a clear career track from entry-level jobs to family wage jobs.*

*County Goal: to provide educational opportunities to enhance upward mobility for both technical and management roles.*

*County Goal: to minimize the number of contracted on-site jobs that pays low wages.*

*County Goal: to encourage employees to use transit, carpools, vanpools, alternative modes of transportation*

Microchip has met the requirements relating to employment based on County goals and the SIP agreement. Although they



Date	Cumulative Total Employees Hired	SIP Requirement for Minimum Number of Jobs Created	Note
Through December 2003	154	204	Goal was met within 30 days of requirement
Through February 2004	204	204	
Through April 2004	242	228	Have exceeded 2004 reporting year goals
Through December 2004	276	228	Have exceeded 2004 reporting year goals

A new job is "created" when someone is hired as a regular full-time employee.



missed their 2003 start up hiring goal by one month, the fact they were able to ramp up operations by hiring displaced Fujitsu employees, exceeds County expectations.

*Wages (overall salary performance for the year)*

The average Microchip base wage in 2004 for all employees in Gresham was just over \$42,000 with the entry wage for Production Specialists ranging from just over \$10/hour to just over \$15/hour for employees hired outside the First Source Agreements.

The total taxable payroll at the Gresham Microchip plant for fiscal year from July 2003 until June 2004 was \$9,753,135. As of June 2004, the total number of employees was 259 with an average base salary of \$42,083.72 per year. This represents only base

salary and does not reflect any "built-in" overtime or shift differential that many employees at this facility receive.

*Employee Benefits*

Microchip provides a range of benefits to its employees and tailors these to meet the needs of its workforce. As of June 2004, benefits available to employees of the Gresham Microchip facility fell into six different categories: Health, Insurance, Financial, Education, Time Off, and Miscellaneous.

*Hiring outside the First Source Agreement (employment of new hires not referred to Microchip by the County, see Table 1)*

The SIP seeks to create career track jobs for un-employed and under-employed residents with a first year emphasis on hiring former Fujitsu employees.

**TABLE 1**

*Microchip Hiring by Source and Type Position*

Category/Quarter	Quarter 1		Quarter 2		Quarter 3		Quarter 4	
	Fujitsu	Other	Fujitsu	Other	Fujitsu	Other	Fujitsu	Other
Production Specialist	11	9	22	1	32	28	25	8
Other	2	3	5	5	5	5	5	7
Total	13	12	27	6	37	39	30	15

Microchip is required to provide employment information for new hires not referred by the County. A total of 108 former Fujitsu employees were hired and the majority of those were employed as production specialists. The remaining positions were hired for positions ranging from Training Instructor to Principle Engineer.

*Transportation (encouraging employees to drive fewer miles to and from work)*

The SIP Agreement for Microchip for transportation encourages employees to drive fewer single occupancy vehicle miles. The company offers the use of public transit, and other alternative means of getting to and from work.

Microchip provides incentives including Trimet passes, carpooling, a compressed workweek, and emergency rides home for bicyclers. It purchases and distributes annual Trimet passes that are not limited to trips for work but are good throughout the Trimet system. Microchip also supports carpooling by offering preferred parking to employees and a ride-home service in case of an emergency.

**2. JOB TRAINING (BUILDING ITS WORKFORCE)**

*County Goal: to build a world-class workforce that provides the full range of skills necessary to attract and sustain competitive, high performance companies.*

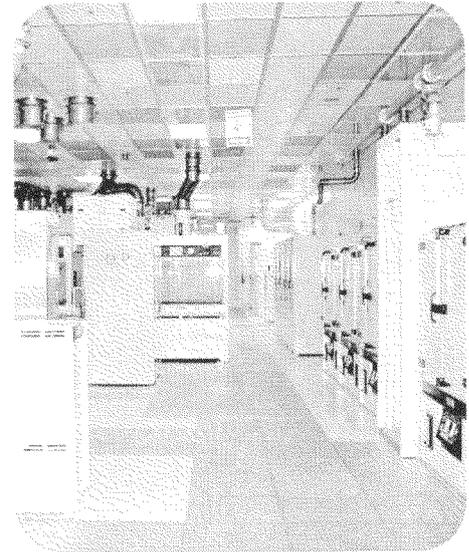
*County Goal: to graduate all children from high school with skills enabling them to succeed in the workforce and/or in post secondary education, including the fundamental ability to read, write, communicate and reason.*

*County Goal: to establish stronger educational programs beyond the secondary level to meet the region's needs for accessible education, expanded graduate programs, high quality research, technology transfer and economic development.*

*County Goal: to provide educational opportunities to enhance upward mobility for both technical and management roles.*

Microchip has established programs to build a workforce with the skills necessary to attract and sustain long-term employees.

Forty hours of training is provided to all new operators through an in-house training program to





enhance job skills. A tuition reimbursement program provides continuing education at low or no cost to the employee. This program provides up to \$5250 per year for job related classes and books.

Microchip has also worked with the education community to support curriculum and career path options in the semiconductor field through the following organizations:

**Mount Hood Community College (MHCC)**

Microchip established a partnership with its sister SIP entity, LSI to determine the effectiveness of the MHCC Electronics program.

Representatives of each company meet quarterly with the Chair of the Department and the Training Center Director to discuss program improvements.

Staff attends a College Preview Night for high school students to support the Microelectronics program.

Microchip has donated time and equipment to the Electronics and Science laboratories of the College.

A Microchip representative began serving a two-year term on the MHCC Foundation Board and support the Foundation's fundraisers.

Microchip serves on the Foundation Scholarship Committee, participating in establishing scholarship guidelines and selecting recipients. The company is a partner and has contributed to the Microelectronics Training Center (MTC), with company staff on the board of directors.

**Center for Advance Learning (CAL)**

The Center for Advanced Learning is a regional public secondary education facility focusing on specialty learning related to medical/health, information technology, engineering and manufacturing.

Kathy Clevenger, Microchip's Director of Manufacturing, in Gresham, serves on CAL's Governing Board.

Company staff have attended meetings to discuss how to ensure that CAL students succeed. The company has provided "documentation templates" for reviewing



curriculum development and have assisted with nearly 200 hours of instruction in several of CAL's programs.

### Local High Schools

- Teleconferenced with an electronics instructor at David Douglas High School regarding an advisory board partnership.
- Worked with the Reynolds Learning Academy High School to explore student internship opportunities.
- Met with counseling staff at Reynolds regarding MHCC scholarship opportunities for graduating Reynolds seniors.

### 3. LOCAL PROCUREMENT

*County Goal: to encourage the purchase of goods and services produced or sold by businesses in Multnomah County and the region.*

Microchip's baseline for expenditures in Oregon in its first year of operation, fiscal year 2002-2003, was just over \$2.4 million statewide and slightly more than \$400,000 in the County. In contrast, the 2003-2004 year was more profitable for local suppliers

with procurement exceeding \$5.3 million statewide and \$3.9 million in the County. Purchases support operations at the facility from stocking chemicals and utilizing electrical contractor services, to paint for parking lots and printing services.

This level of purchasing is expected to fluctuate in coming years as first year operations require a higher volume of supplies to support the ramping up of operations.

### 4. ENVIRONMENTAL PROTECTION

*Goal: to approve tax abatements only for firms that demonstrates a commitment to environmental protection.*

This goal asks the company to demonstrate a commitment to environmental protection. Microchip has taken a two-pronged approach to meet this goal.

First, it agreed in the SIP contract to identify conditions associated with protection in five categories by June 30, 2004. These categories are: Toxic and hazardous materials; Water conservation,

reuse and wastewater discharge; Air quality; Waste reduction and recycling; and Energy conservation. These categories will be measured and reported in next year's annual report.

Second, Microchip agreed to evaluate participation in the Oregon Green Permit program. DEQ's Green Permits Program is a voluntary program that encourages and rewards facilities that go the extra mile to reduce environmental impacts.

The company has implemented an Environmental Management System and the first six-month audit of the Environmental Management System was complet-

ed in February 2005. This will be reported in next year's annual report. The company's application for a Green Permit was initiated in March of 2005.

Finally, Microchip is required to report all notices of violation received from an environmental authority. The City of Gresham issued only one minor Notice of Violation for Combined Effluent pH in June 2003. Because the violation was the company's first, it was issued a written notice.

Microchip initiated an investigation of the incident and began corrective action. These actions included short-term procedural changes, control logic changes, training/documentation, and system review. The City of Gresham has visited the facility, reviewed the investigation process and corrective action, and is satisfied with the actions.



## CONCLUSION

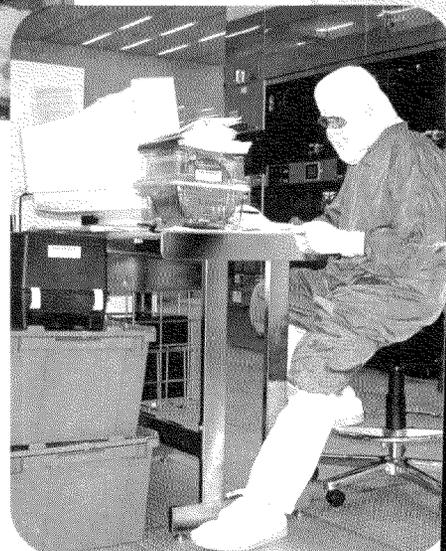
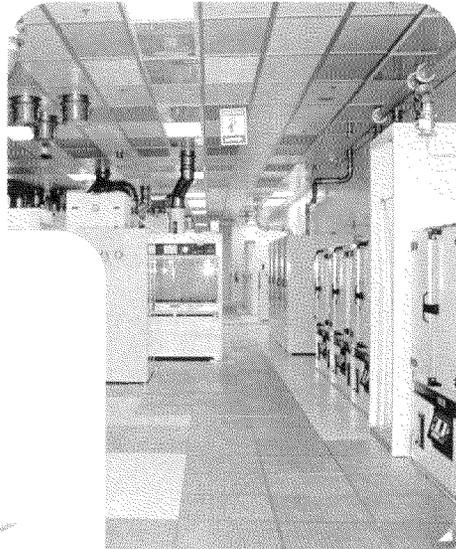
Microchip Technology Inc. has proven to be a good partner for Multnomah County and the City of Gresham in carrying out its SIP agreement, since purchasing the facility in 2002.

They have met or exceeded all of the commitments per the SIP contract while ramping up first year operations as the Gresham plant. Microchip has been particularly successful and responsive in rehiring former Fujitsu employees exceeding County expectations for employment goals.

Microchip's business model and diversified customer base, together with their involvement in community events and activities helps to bring economic stability to east county.

The open communication between the company, Multnomah County and the City of Gresham will continue to keep this partnership productive as the agreement matures.





**MULTNOMAH  
COUNTY**

Multnomah County Chair's Office  
501 SE Hawthorne Blvd., Suite 600  
Portland, Oregon 97214

[www.co.multnomah.or.us](http://www.co.multnomah.or.us)



**MICROCHIP**  
*In:Control*

# **Update on Microchip Technology**

**October 6, 2005**

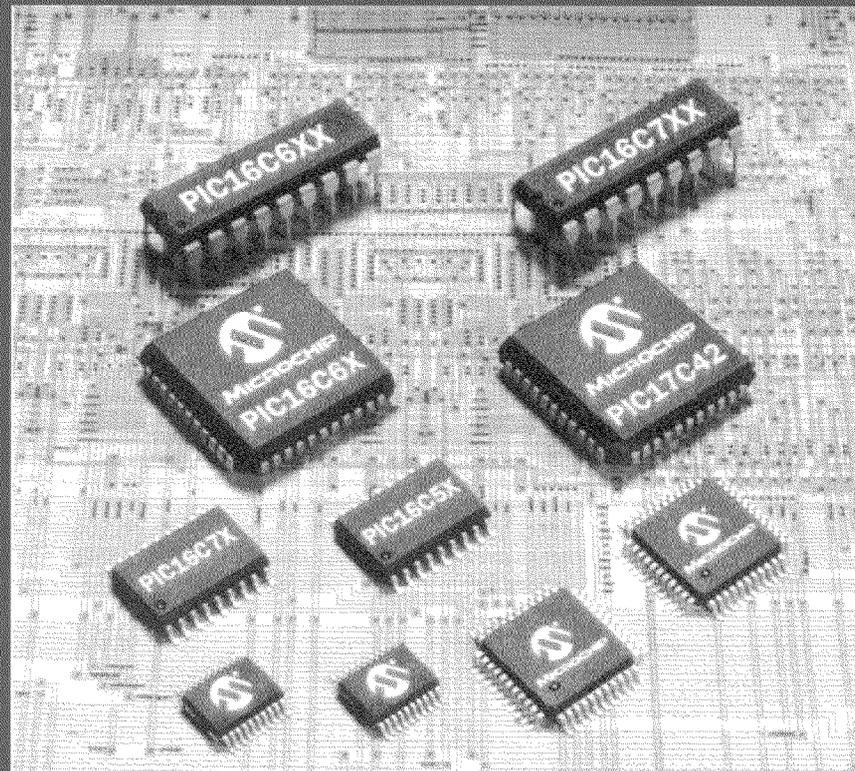
**Kathy Clevenger, Director Fab Four (Gresham)**  
***Microchip Technology Incorporated***



**MICROCHIP**  
*InControl*

# Microchip Technology

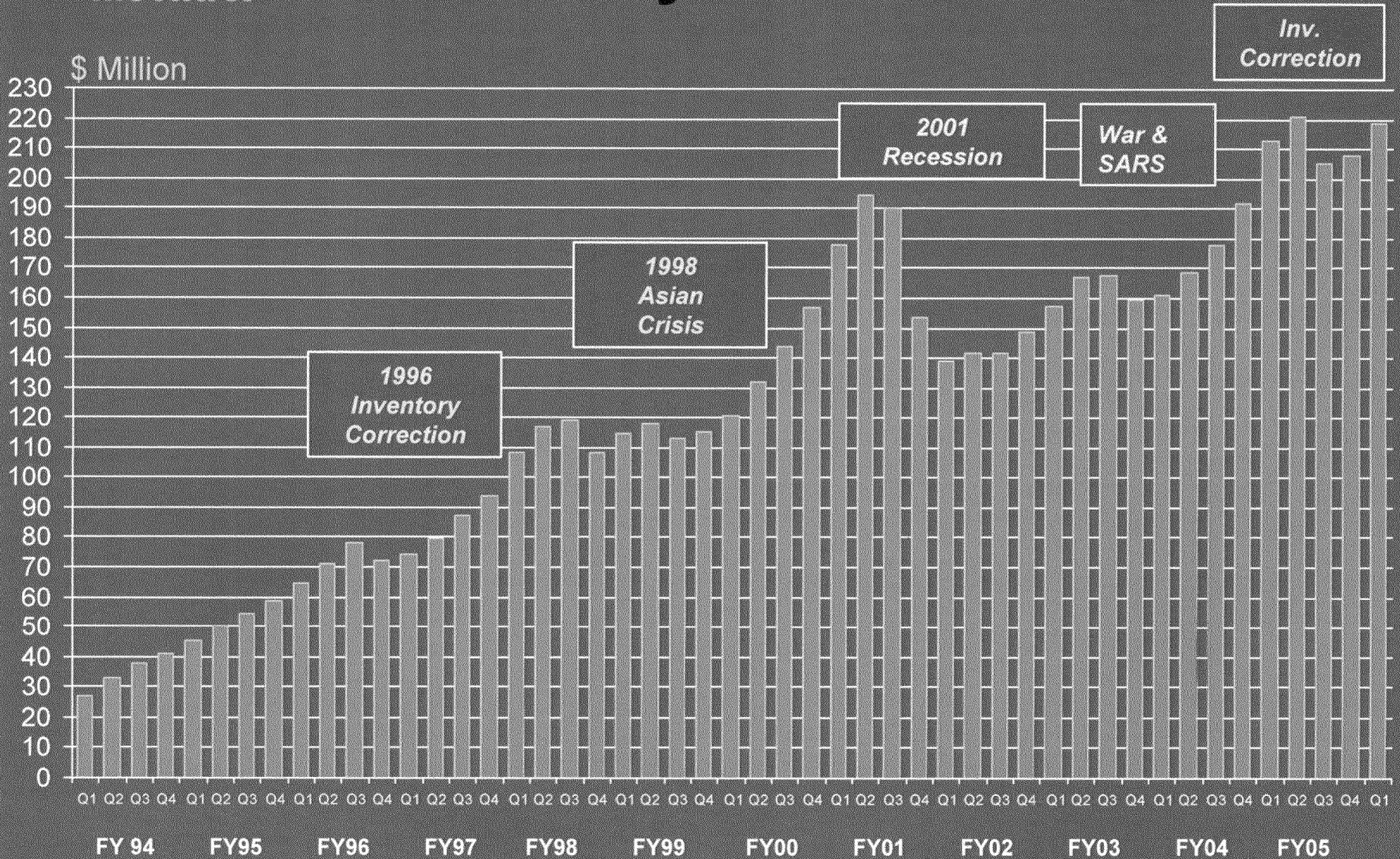
- Leading supplier of RISC microcontrollers
- Established in 1989, public in 1993
- Headquarters in Chandler AZ
- Purchased former Fujitsu site in August 2002, started production at Fab 4 in October 2003





**MICROCHIP**  
InControl

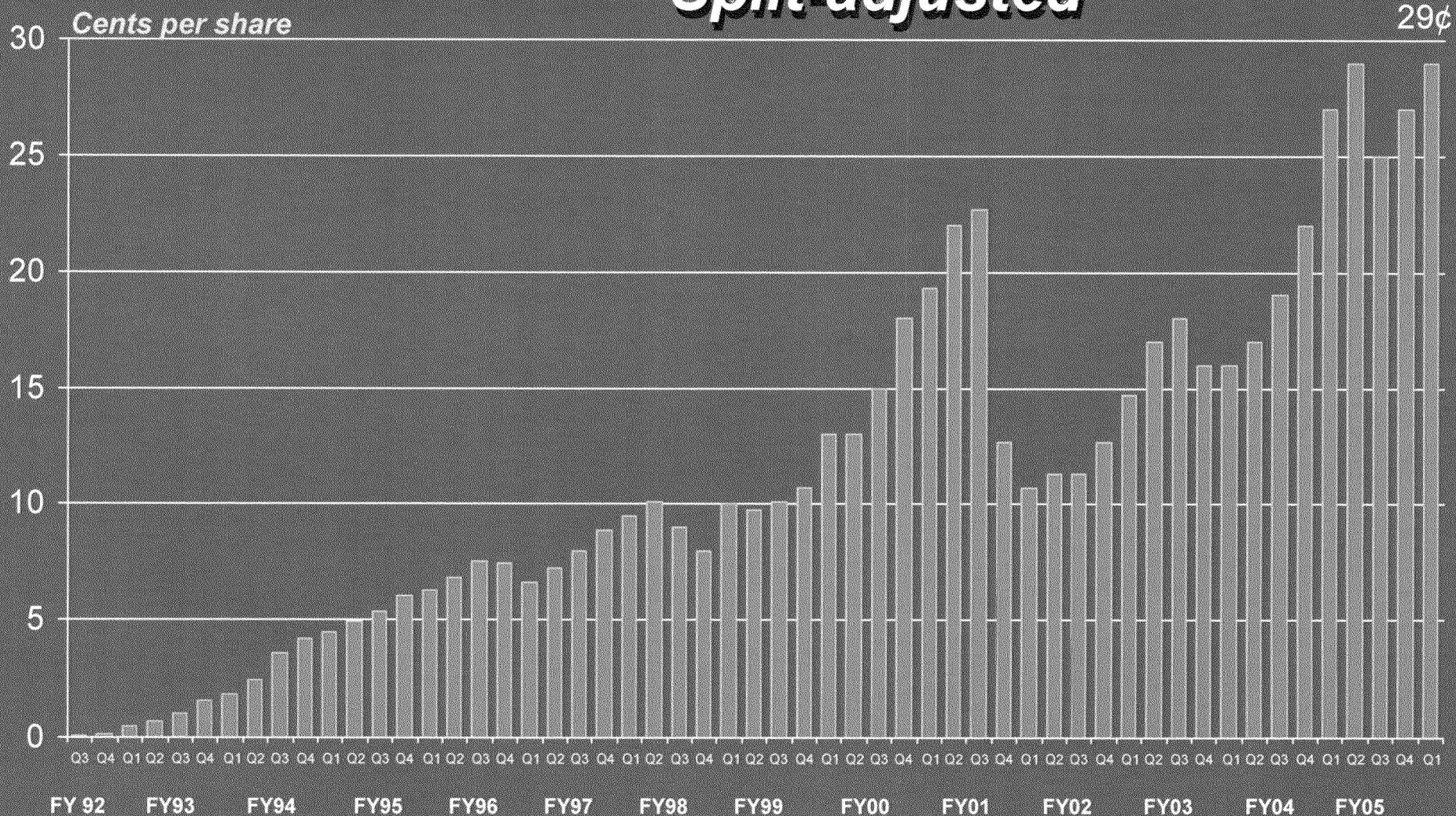
# Quarterly Net Sales Growth





**MICROCHIP**  
InControl

# Quarterly Earnings Per Share Growth *Split-adjusted*



*Excludes one-time charges and gains*



**MICROCHIP**  
*InControl*

# Microchip Business Model

Proprietary Products	✓	~88% of total sales
High Barriers to Entry	✓	Programmability, RISC architecture
Low Customer Concentration	✓	Top customer generates <3% of sales; over 45,000 customers
Diversified Markets	✓	Ubiquitous application base
Strong Geographic Balance	✓	43% Asia-Pacific/29% Americas/ 28% Europe
Consistent, Stable Growth	✓	9 consecutive years of sales and earnings growth (FY'92-'01 sales CAGR: 29%) (FY'92-'04 sales CAGR: 21%)
Low Cost Manufacturing	✓	Utilize mature process technology
High Profitability	✓	>30% operating margin; currently >33%



**MICROCHIP**  
*InControl*

# Ubiquitous Applications

Consumer

Automotive

Office  
Automation

Telecom

Industrial

Consumer  
Electronics

Safety/  
Security

Office  
Equipment

Phones

Motor/Process  
Control

Appliances

Comfort/  
Convenience

PCs and  
Peripherals

Modems

Measurement  
Instrumentation

Gadgets

Body  
Electronics

Local Area  
Networks

Satellites

Robotics

Infotainment



**MICROCHIP**  
*InControl*

# Microchip Fab 4

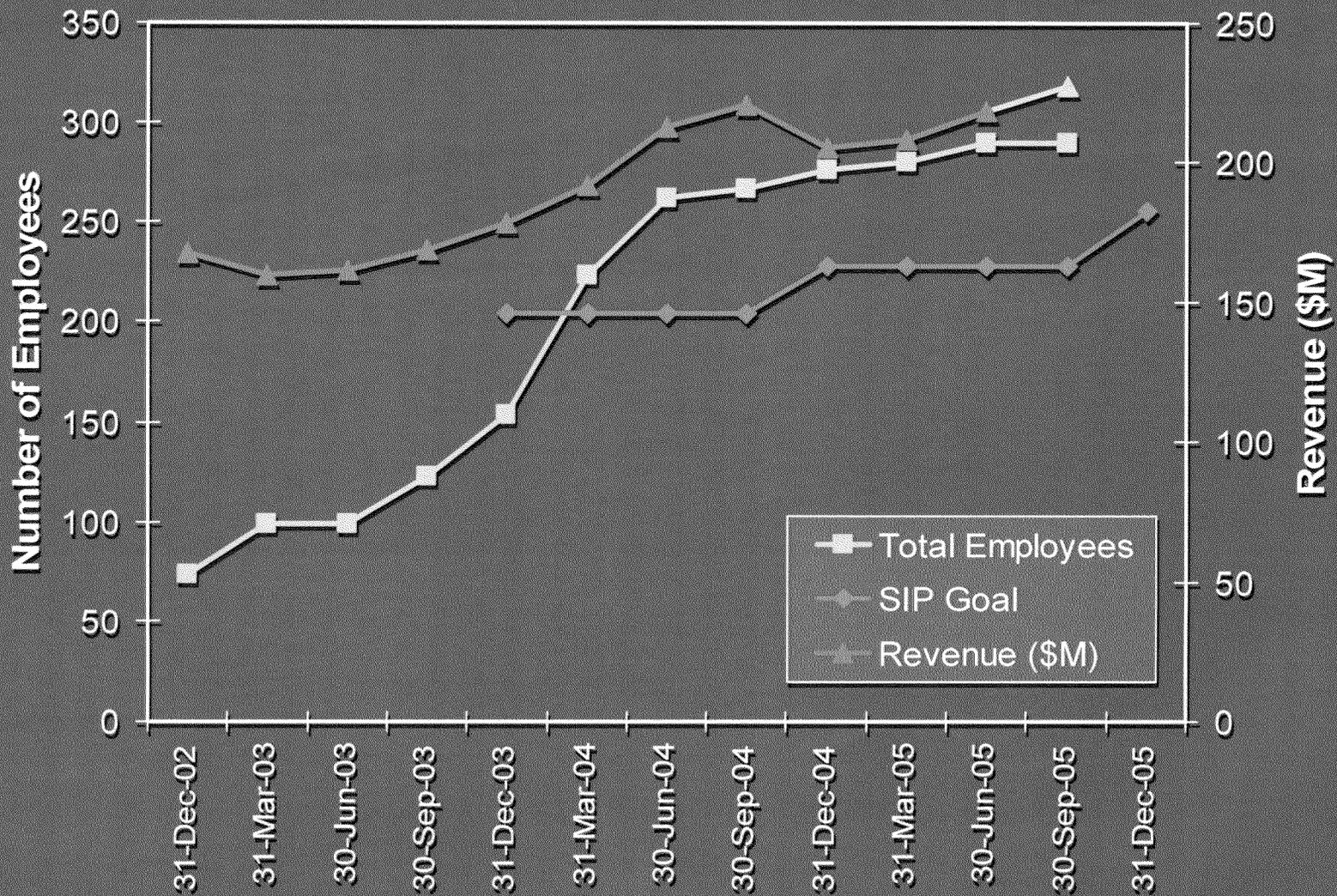
- Volume production
  - Existing capacity to meet future business needs
- Manufacturing Microchip's most advanced technologies and developing new processes
- Facility, tools, local suppliers, community relationships outstanding
- 290 employees
  - ~50% former Fujitsu





**MICROCHIP**  
InControl

# Microchip Fab 4





**MICROCHIP**  
*InControl*

**Thank you!**



# MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

APPROVED : MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # R-3 DATE 10-6-05  
DEBORAH L. BOGSTAD, BOARD CLERK

### Board Clerk Use Only

Meeting Date: October 6, 2005  
Agenda Item #: R-3  
Est. Start Time: 10:15 AM  
Date Submitted: 09/28/05

### BUDGET MODIFICATION:

**Agenda Authorizing Settlement of Alpha Energy Savers, Inc. and Robert Obrist v.  
Title: Multnomah County, Diane Hansen, and Judy Swendsen. [USDC CV 01-1363 KI]**

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

<b>Date Requested:</b>	<u>October 6, 2005</u>	<b>Time Requested:</b>	<u>5 minutes</u>
<b>Department:</b>	<u>Non-Departmental</u>	<b>Division:</b>	<u>County Attorney</u>
<b>Contact(s):</b>	<u>Agnes Sowle</u>		
<b>Phone:</b>	<u>503-988-3138</u>	<b>Ext.:</b>	<u>83138</u>
		<b>I/O Address:</b>	<u>503/500</u>
<b>Presenter(s):</b>	<u>Susan M. Dunaway, Assistant County Attorney</u>		

### General Information

1. **What action are you requesting from the Board?**  
Approve settlement of tort litigation in the amount of \$200,000. Office of School and Community Partnerships approves the settlement.
2. **Please provide sufficient background information for the Board and the public to understand this issue.**  
Plaintiff Robert Obrist, owner of Alpha Energy Savers, Inc., is an independent contractor who provides weatherization services to county residents through a non-exclusive contract with the County. Plaintiff alleges a First Amendment retaliation claim regarding actions taken under the contract. Settlement in this case is acceptable and avoids the expense of a very lengthy, expensive, and complex trial.
3. **Explain the fiscal impact (current year and ongoing).**  
N/A
4. **Explain any legal and/or policy issues involved.**  
On December 18, 2003, the Board adopted Resolution 03-171 delegating authority to the

County Attorney to settle claims and litigation against the County or its employees in amounts up to \$25,000 per case. The County Attorney must obtain Board approval for all settlements of over \$25,000.

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

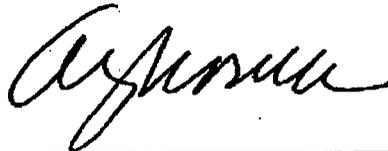
N/A

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**Required Signatures**

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**Department/  
Agency Director:**



**Date:** 09/28/05

**Budget Analyst:**

**Date:**

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**



# MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

**Board Clerk Use Only**

**Meeting Date:** 10/06/05  
**Agenda Item #:** R-4  
**Est. Start Time:** 10:20 AM  
**Date Submitted:** 09/01/05

**BUDGET MODIFICATION:** -

**PUBLIC HEARING and Board Decision of Taxpayers Denué (Nick) Steffanoff and Karen Steffanoff's Appeal of the Administrator's Final Determination Regarding their 2004 Multnomah County Income Tax (ITAX) Obligations**

**Agenda Title:** Pursuant to ITAX Administrative Rule 11-614 (Continued from September 22, 2005)

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

<b>Date Requested:</b> <u>10/06/05</u>	<b>Time Requested:</b> <u>15 minutes</u>
<b>Department:</b> <u>County Management</u>	<b>Division:</b> <u>Finance/ITAX Administration</u>
<b>Contact(s):</b> <u>Dave Boyer</u>	
<b>Phone:</b> <u>(503) 988-3903</u> <b>Ext.</b> <u>83903</u> <b>I/O Address:</b> <u>503/531</u>	
<b>Presenter(s):</b> <u>Dave Boyer</u>	

**General Information**

**1. What action are you requesting from the Board?**

Taxpayers Denué Steffanoff and Karen Steffanoff challenged the Administrator's final determination regarding their 2004 ITAX obligation, and timely notified the Administrator of their wish to appeal to the Board of County Commissioners pursuant to ITAX Administrative Rule 11-614 Appeal Rights. The Board must determine whether the taxpayers are subject to the tax, and the amount of their obligation. The Board's decision regarding the taxpayers' obligation is final.

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

Taxpayers have the right to appeal any determination of the Administrator of the Multnomah County Income Tax by filing written protest. Denué Steffanoff and Karen Steffanoff filed such a protest, and are entitled to a hearing before the Board of County Commissioners.

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

The Administrator determined that Denu Steffanoff and Karen Steffanoff's tax obligation for 2004 is \$455.00.

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

Denu Steffanoff and Karen Steffanoff challenge the ITAX initiative as unlawful and unconstitutional.

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

Denu Steffanoff and Karen Steffanoff have submitted a written statement. The Administrator has provided a written response to that statement. Denu Steffanoff and Karen Steffanoff may present relevant testimony and oral argument to the Board, and the Administrator may respond with relevant testimony and oral argument.

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**Required Signatures**

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**Department/  
Agency Director:**

*David G. Boyer*

**Date:** 09/01/05

**Budget Analyst:**

**Date:**

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**

# Script/Procedure for 10/06/05 Continued ITAX Hearing Before the Multnomah County Board of Commissioners

## INTRODUCTION:

**Chair:** This is the time set for **the continued** public hearing on the claim of **TAXPAYERS NICK STEFFANOFF AND KAREN STEFFANOFF** under Administrative Rule Section 11-614 for the ITAX. Is **TAXPAYER NICK STEFFANOFF** present? Please come forward and have a seat at the presenter table.

I am Diane Linn, Chair of the Multnomah County Board of Commissioners. Also in attendance Commissioners Serena Cruz, Lonnie Roberts and Maria Rojo. **Vice-Chair Lisa Naito is excused.**

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

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

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

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

*or if the Chair has disclosures to make*

I have the following disclosures to make: \_\_\_\_\_

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

[If there are disclosures of ex parte contacts, participants should be given an

opportunity to rebut the substance of any disclosure. “Does anyone have any rebuttal testimony relating to any disclosure?”]

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

### **CONDUCT OF THE CONTINUED HEARING:**

**Chair:**       **The Board received another piece of written evidence from Mr. Steffanoff which we have all seen.**

**Mr. Boyer do you have anything additional to add?**

**Mr. Steffanoff do you have anything in addition to what you have already said or written?**

**Is the Board ready to consider?**

3. Commission discussion, questions, deliberation, and possible decision
4. Future scheduling (continued hearing) if necessary

### **BOARD DECISION:**

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

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

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

## INTRODUCTION:

**Chair:** This is the time set for public hearing on the claim of TAXPAYERS NICK STEFFANOFF AND KAREN STEFFANOFF under Administrative Rule Section 11-614 for the ITAX. Is TAXPAYER NICK STEFFANOFF present? Please come forward and have a seat at the presenter table.

I am Diane Linn, Chair of the Multnomah County Board of Commissioners. Also in attendance are Vice-Chair Lisa Naito and Commissioners Serena Cruz, Lonnie Roberts and Maria Rojo.

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

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

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

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

*or if the Chair has disclosures to make*

I have the following disclosures to make: \_\_\_\_\_

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

[If there are disclosures of ex parte contacts, participants should be given an

opportunity to rebut the substance of any disclosure. “Does anyone have any rebuttal testimony relating to any disclosure?”]

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

### **CONDUCT OF THE HEARING:**

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

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

### **BOARD DECISION:**

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

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



Deborah Bogstad, Board Clerk

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**MULTNOMAH COUNTY OREGON**

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

September 28, 2005

Denu Steffanoff and Karen Steffanoff  
2 Preakness Court  
Lake Oswego, OR 97035-1405

RE: NOTICE OF HEARING ON MULTNOMAH COUNTY INCOME TAX  
APPEAL [Account Numbers 26481031546 and 26481031555]

Dear Mr. Steffanoff:

As you know the Multnomah County Board of Commissioners continued your September 22, 2005 hearing to **Thursday, October 6, 2005. The continued hearing will commence at approximately 10:15 a.m. in the first floor Commissioners Boardroom at 501 SE Hawthorne Boulevard, Portland.** The ITAX Administrator will also be in attendance. If you have any questions, please feel free to contact me.

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

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

Sincerely,

Deborah L. Bogstad, Board Clerk  
Multnomah County Commissioners

Enclosure

cc: Dave Boyer  
Jacquie Weber

Multnomah County Board of County Commissioners  
c/o Deborah Bogstad - Board Clerk  
501 S. E. Hawthorne Blvd. Suite 600  
Portland Or. 97214

ph: (503) 988-3277

September 26, 2005

re: September 22, 2005 Appeal hearing on administration of ITAX

Dear Ms. Bogstad:

I appreciate the Board hearing my appeal on Thursday and I am sending this letter to follow up on the references made by Agnes Sowle and Diane Linn to conducting a "conversation" about the ITAX and MCBIT as they relate to cases such as mine. It was my understanding that I was to be included in these "conversations" and therefore I am submitting this letter with some input and feedback. I assume such input is permitted without breaching the "ex parte" contact that Agnes Sowle referenced in Thursday's hearing and that the contents can be shared with the Board for this "conversation". I also assume it would be proper for you to forward these topics of discussion to Dave Boyer and Jacquie Weber.

1. Given the presentation by Dave Boyer at the hearing it occurs to me that I need to state the basis for my raising some Constitutional issues.

Neither ITAX nor the MCBIT ordinances address the specific issue of how real property that produces income for retired people who are not in business should be treated.

Therefore I sought guidance from the Multnomah County tax Codes and I noticed the following section (MCBIT). You may recall my testimony and appeal raised some State Constitutional issues. I raised those Constitutional issues based on the following reference in the County Business Income Tax Law: (§ 12.010)

"(B) Should a question arise under the Business Income Tax Law on which this chapter is silent, the Administrator may look to the laws of the State of Oregon for guidance in resolving the question, provided that the determination under state law is not in conflict with any provision of this chapter or the state law is otherwise inapplicable.  
(Ord. 1046, Renum 11.502&Amd, 08/19/2004; '90 Code, § 5.60.020, 07/01/1998; Ord. 897, passed, 01/08/1998; Ord. 768, passed, 06/24/1993)"

2. My September 22, 2005 letter to the Board, used as the basis of my testimony, was intended to clarify that I am not appealing the ITAX ordinance but rather seeking administrative relief to compensate for also paying the MCBIT tax on that same income. My request was to deduct the amount of tax paid under MCBIT from the amount owed under ITAX so that I would only pay the balance.

3. Diane Linn's expressed concern about the administration of MCBIT prompts me to share some observations about how that tax is administered because it relates to how the ITAX is administered. (The references below are to the City of Portland Business License Ordinance and Administrative Rules since I could not find comparable Administrative Rules for Multnomah County and the City administers MCBIT for Multnomah County.)

a. Retired people receiving Social Security payments and who rely on real estate rentals as their main source of income are penalized by this "business tax" and its outdated income limits. If the \$25,000 ordinance limit were \$60,000 then many of these seniors would not be subjected to the Tri-Met employment tax. It makes no sense to be giving retired seniors a discounted Tri-Met pass and then tax them for Tri-Met Employment taxes when they have no business and no employees. They are only holding a rental or lease agreement as a "*personal investment*" as outlined in the City's Administrative Regulations. Quoting (*italics*) from the City Administrative Rules/regulations:

*"Persons whose gross receipts from all business activities is less than \$25,000 (\$15,000 for tax years 1993-1997) in any tax year. If the licensee or taxfiler believes the business activity may be exempt based upon the gross receipts exemption, the licensee or taxfiler must file a statement of exemption with the Bureau in lieu of the application for a City Business License or in lieu of the tax filing for the County Business Income Tax. To obtain an exemption statement form, contact the Bureau of Licenses.*

*Individuals (as defined in Code Section .100 F) whose only business transactions are limited to:*

- 1. Sales (including exchanges or involuntary conversions) of real property not used in trade or business.*
- 2. Sales of personal property acquired for personal use.*
- 3. Interest, dividends, gains or losses from personal investments.*
- 4. The renting or leasing of less than 10 dwelling units of residential real property."*

I direct the Board's attention to item 3. above (as defined in City Code Section 100 F) and submit that all my "business transactions" fall into "*Interest, dividends, gains or losses from personal investments.*" My only income is from interest, dividends or gains (or losses) from personal investments. I have no "business". My building rental in Portland is a *personal investment* made years ago in anticipation of retirement and by the above quoted definition that income should be exempt. (Item 3. "*Interest*" is in conflict with item 4. "*renting residential.*")

b. Item 4. above, which is identical in MCBIT creates a conflict in income with item 3. that is designated as "business". The conflict can be described as follows:

The MCBIT ordinance exempts income from residential rentals of nine or less units. A nine unit apartment building, in today's market, returns anywhere from \$60,000 to \$120,000 to the owner and yet that owner would not be subject to the MCBIT. From a Business Tax revenue standpoint the County would benefit substantially from including these numerous residential rentals in the MCBIT. A nine unit, or less, apartment building does have substantial "business" costs associated with it such as, but not limited to; advertising, management, cleaning, repairs, maintenance, utilities, landscape maintenance, insurance, and real estate taxes. A "triple net" rental agreement, such as an office building, does not involve any of these costs or "business activities" and yet is taxed as a "business". Instead of including these residential rentals in MCBIT the County should amend the threshold for MCBIT to at least \$60,000 income for commercial real estate rentals/leases.

c. There are many more than 250 to 300 triple net commercial lease holders in Multnomah County. Only a small fraction are currently being taxed under MCBIT.

d. Taxpayers in other states who do not file an Oregon income tax return are exempt from the business license tax (MCBIT) since the City relies on the State Income tax return for reporting such income.

e. A \$25,000 income is generally not taxable income under Federal tax laws yet a senior in Multnomah County has to pay a business license tax on that minimal income.

f. To arbitrarily exempt incomes in excess of \$25,000 only because they are derived from residential rentals of nine or less units creates unequal taxes for Multnomah County real property owners. As written, the ordinance, exempts residential real estate lease incomes in excess of \$25,000 (\$60,000 to \$120,000) while subjecting owners of smaller commercial rental investments with smaller incomes to the Business Tax (MCBIT).

g. Since the County only regulates a small fraction of the "independent real estate rental only" owners under the MCBIT, granting an exemption is consistent with the intent of the ordinance and this fractional enforcement.

h. Since \$25,000 income is generally not taxable under Federal Tax laws the County should be reluctant to penalize seniors by enforcing the Business License Tax on "real estate rental only" income.

### **Solutions/Options**

I recognize that the MCBIT and particularly ITAX ordinance were drafted to cast a wide a net as possible to include all sources of income. Given the school funding emergency this is understandable. However I submit that there are some resultant inequities that can be resolved via administrative action or amended administrative rules. All three of the following options could be adopted collectively or individually.

**Option number one - Raise the income threshold.** The County could adopt administrative rules granting waivers or exemptions from the \$25,000 threshold in recognition of the inherent conflict with the \$60,000 to \$120,000 limits permitted for residential rentals. I.e. Instead of including these residential rentals in MCBIT the County should amend the threshold for MCBIT to at least \$60,000 income for commercial real estate rentals/leases. This would provide equal taxation for Multnomah County real estate owners.

**Option number two - Enforce MCBIT on all leaseholders.** There are considerably more than 250 - 300 commercial lease hold income properties in Multnomah County. For example most of the franchises restaurants usually sell the franchise with a long term lease on the land and then sell that land with the lease to an investor. Given just the number of Taco Bells, McDonalds, Burger King's, Del Taco's, Wendy's, Subway, Pizza Hut, KFC, etc., etc. it can be seen that there are substantially more than 350 lease holders that would be subject to MCBIT as currently administered. If the County maintains that the current ordinance, as administered, is adequate and equitable then the County should be more aggressive in its enforcement and seek out the remaining lease holders that are not paying the tax.

**Option number three - Extend a credit for MCBIT taxes paid.** A third option would be for the County to credit people paying both MCBIT and ITAX on that same income a credit on their ITAX for the amount of tax paid under MCBIT. (This was my proposal to the Board at the September 22, 2005 hearing.)



Nick Steffanoff  
2 Preakness court  
Lake Oswego Or. 97035

Multnomah County Board of Commissioners  
501 S. E. Hawthorne Blvd Suite 600  
Portland Or. 97214

ph: (503) 988-3277

September 22, 2005  
re: ITAX Acct: 26481031555 appeal

Dear Commissioners:

**Introduction.** I am a retired person (Social Security and Medicare) who was born in Portland, finished grade school and High School in Portland, finished College at the University of Oregon and had a business career in Portland until 1993. I purchased Portland area real estate as the basic income source for my retirement plan/trust. I voted for the ITAX and as a long term Portlander feel the obligation to pay for our public services via the tax structure. I did not realize that the County would tax me twice on my real estate lease in Multnomah County. Taxed once under ITAX and taxed again under MCBIT.

This appeal is not intended to challenge the legality of the ITAX but rather request relief in the manner in which it is administered. My original appeal outlined how the ITAX, as administered, is unequal for a small select group of Multnomah County residents. The staff's response to my appeal materials does not address the issues I raised but rather cites basic case history. None of the cases cited in the staff response addressed the issues raised in my appeal.

Using the staff's numbering in their September 1, 2005 response I submit the following:

**Staff item I.** I have no argument with the staff's response and acknowledge that, as written, the County ordinance definition of residency clearly defines my status as a County resident. The County website, however, is misleading as outlined in my July 16, 2005 appeal document.

**Staff item II.** None of the three court cases cited by staff address the constitutional issues raised by my appeal. Nor do these cases address the issue of double taxing of real property by way of both the County ITAX and the County's MCBIT and diminishing the value of the associated income real estate.

**Staff item III.** Staff asserts that the Multnomah County ITAX does not violate the uniformity of taxation per Article IX Section I of the Oregon Constitution and cites an Oregon Supreme Court ruling to support that assertion. The Oregon Supreme Court ruled that tax levied has to be uniform throughout the County. The ITAX does not tax uniformly in that it taxes real property income on Multnomah County real estate differently depending on the owner's county of residency. I.e. Not all Multnomah County real property is taxed uniformly. Staff's cited *Jarvill v. Eugene*, 289 Or 157 (1980) but that case does not address this issue of taxing real property uniformly.

Multnomah County imposes a business income tax (MCBIT) on real property uniformly regardless of the owner's residency in the County. This is a uniform taxation on all business income in Multnomah County. But when it comes to taxing the personal income from real property the County confines that taxation to only the residents within Multnomah County. This is inconsistent tax policy and penalizes owners of income producing real estate who happen to live in Multnomah County. Owners of Multnomah County income producing real estate who reside outside of Multnomah County do not pay this ITAX on their real estate income. I pay both ITAX and MCBIT on my real estate retirement income.

Multnomah County residents who rely on income producing real estate in Multnomah County suffer a "double taxation" as a result of paying both ITAX and MCBIT. The City of Portland Bureau of licenses records show that there are approximately 250 Multnomah County residents that are taxed on their real estate income/leases under MCBIT out of the 40,000 licensees administered by the City. This is only six tenths of one percent (.6%) of the total licensees whose only "business" is holding a real estate lease. I am one of these 250 people.

**Staff Item IX.** Staff observes that Article I, section 32 of the Oregon Constitution requires the County to ensure that the tax is applied uniformly to all persons within the class of persons taxed. But the staff ignores that all owners of Multnomah County real estate are a "class of persons" regardless of county of residence. For example, the County currently offers a 3% discount on property taxes if paid by November 15 to all owners of Multnomah County real property regardless of county of residence. The County also recognizes this class of Multnomah County real property owners by giving an ITAX credit for those County residents who live outside the Portland School District. The County has used appropriate discretion in the taxing of real property by using this "out of school district credit" for the common class of persons owning County real property regardless of county of residence. This "out of school district credit" is a logical a credible discretionary policy adopted by the County. Owners of Multnomah County Real Property is a well established class of persons.

Due to real property owner's varying county residency their Multnomah County real property is being taxed differently under ITAX. The County ITAX ordinance did not anticipate this small niche (approximately 250 owners) of real property owners being taxed non-uniformly. The ITAX ordinance's intent was to tax personal income, not to duplicate the MCBIT which already taxes real property income as business income. I.e. Clackamas County residents who own income producing real estate in Multnomah County pay MCBIT but not ITAX. As staff observes: "*What Article I, section 32 requires is that the tax be uniformly applied within the particular class.*" The class of Multnomah County real property owners is not being taxed uniformly. I submitted documentation as to how the ITAX tax diminishes the value of my primary real estate asset by \$6,500.00 (Six Thousand Five Hundred Dollars). Staff has not addressed this decrease in asset value due to the ITAX nor addressed any discretionary action as a solution.

Staff's citation of *Wilson v. Dep't of Revenue*, 302 Or 128 (1986) does not address this double taxation and inconsistent tax policy on real property in Multnomah County.

**Staff Item IV.** Staff interpreted the "core" of my appeal to center on being taxed on income from rental properties outside Multnomah County. This was not the intent of my appeal. I acknowledge that the ITAX should apply to sources of income outside of Multnomah County.

My intent was to appeal the double taxation of my real property in Multnomah County, point out the inconsistent tax policy when viewed in relationship to MCBIT, and to demonstrate the loss in value of my primary income asset (\$6,500) due to the ITAX. I.e. I pay the MCBIT "business license tax", despite not being "in business" and depending on my real estate lease for my retirement income and pay the personal income tax under ITAX on this same real estate income.

**Conclusion:** I am requesting that the Board find that the taxing of my real estate under both ITAX and MCBIT is unique and inconsistent tax policy and that, as administered, my ITAX should be reduced by the amount I paid under the County's MCBIT similar to the ITAX credit given to people who live outside of the Portland School District. This would resolve the \$6,500 reduction in value of my primary income asset as a result of the ITAX.



**Department of County Management**  
**MULTNOMAH COUNTY OREGON**

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

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TO: Nick Steffanoff and Karen Steffanoff  
Board of County Commissioners

FROM: Dave Boyer, Administrator, Multnomah County Income Tax

DATE: September 1, 2005 (typographical errors in numbering corrected 09/28/05)

SUBJECT: Staff Report: Administrator's Response in the Multnomah County Income Tax Determination Appeal of Denué (Nick) Steffanoff and Karen Steffanoff

I. Introduction.

Mr. Steffanoff originally challenged the Administrator's determination that he is a full time resident of Multnomah County for purposes of the Multnomah County Income Tax. In his written submission dated July 16, 2005, Mr. Steffanoff apparently concedes the Administrator's determination of his residency status. However, in his July 16, 2005 written submission he raises a second issue, contending that the imposition of the county personal income tax is unconstitutional because it affects owners of Multnomah County income real estate differently, depending upon whether the owner is a Multnomah County resident, or resides outside Multnomah County.

The following is the Administrator's response to Mr. Steffanoff's written statement dated July 16, 2005.

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

The Oregon Supreme Court upheld the authority of a home rule county to impose an income tax in *Multnomah Kennel Club v. DOR*, 295 Or 279, 666 P2d 1327 (1983). That case involved the imposition of a business income tax by the county, and the court addressed the county authority issue as follows, "even in the absence of an express statutory grant, we hold it is an implicit power of a constitutional home rule county to levy taxes." 295 Or at 284. The rationale of the court in upholding the authority of the county to impose the business income tax applies equally to a personal income tax. Although the state also imposes a personal income tax on state residents, the state has not preempted the area of personal income taxation because, "The state is deemed to have exercised its power to preempt a field only where the intent to do so is apparent." 295 Or at 286. There is no provision in ORS Chapter 316 relating to state income tax that could be construed as intent by the legislature to preempt the field of income taxation. See also *Jarvill v. City of Eugene*, 289 Or 157, 169 (1980) ("a municipal corporation may assume powers to impose taxes and to select the kind of taxes most appropriate in order to provide governmental services." Citing *Horner's Market v. Tri-County Trans.* 256 Or 124 (1970).)

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

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

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

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

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

Article I, section 32 of the Oregon Constitution requires the County to ensure that the tax is applied uniformly to all persons within the class of persons taxed. The class of citizens subject to this tax is all residents of Multnomah County. Therefore the County must apply the tax uniformly to all county residents. By treating all income equally, the County income tax is consistent with this requirement. *Wilson v. Dep’t. of Revenue*, 302 Or 128, 132 (1986) (“What Article I, section 32, requires is that the tax be uniformly applied within the particular class.”)

V. Conclusion

The core of Mr. Steffanoff complaint centers on the fact that he is being taxed on income from rental properties located outside Multnomah County. He asserts a number of arguments against the tax under both the state and federal constitutions, including due process, equal protection (federal) and uniformity (state). As set out above, none of the arguments have merit.

7/19 no print recd.

Multnomah County Personal Income Tax  
ITAX Administrator  
P. O. Box 279  
Portland Or. 97207-0279

ph: (503) 988-4829

July 16, 2005

re: Appeal of Final Letter of Determination, June 28, 2005,

26481031546  
ITAX Acct: 26481031555

Dear Administrator:

This letter is intended to initiate our written notice to appeal your "Final letter of Determination" prior to the 30 day deadline of your referenced letter.

**History:** Our previous letter seeking relief of June 27, 2005 was based on the Q & A page from Multnomah County ITAX website that states:

"What if I only lived in Multnomah County for part of the year?"

Part-year residents will only be taxed based on the portion of the year they lived in Multnomah County. Part-year residents will only be taxed on the income they earned during the time they lived in Multnomah County. For example, a taxpayer who moved out of Multnomah County on Feb. 1 will owe the tax on roughly one-twelfth of their income."

You can see from that Q&A answer that it would be reasonable to conclude that we are entitled to the residency fraction provisions of the ITAX ordinance as we are "part year residents" given the limit of information in that website answer. We "move out", as stated in our prior letter, for six months annually. While ORS 316.027 and associated OAR 150-319-6.027 would appear to support your interpretation of "residency" in Oregon your administration of the ITAX does not address some Constitutional issues associated with real estate lease income earned outside of Multnomah County by residents of Multnomah County. Nor does it address real estate lease income earned inside Multnomah County by residents of Multnomah County and residents of other counties.

While outside the intent and focus of this appeal the Appellant strongly recommends that this website "Q&A" question be rewritten so that additional people are not misled by what it actually attempts to describe. As written the appellant fits the description of "Part year residents" which only refers to "during the time they lived in Multnomah County" without reference to voter registration and DMV demographics. Only additional research of ORS 316.027 and associated OAR 150-319-6.027 reveals that this website description is incomplete and misleading. Our initial appeal was based on that misleading and incomplete information.

The core of this appeal revolves around several Constitutional issues on leased income producing real estate as an associated class of citizens. It also addresses the specific economic loss to the Appellant due to the devaluation of his primary asset. All owners of income real estate in Multnomah County pay Multnomah County property tax but some of these owners avoid the County income tax on their income property. The County, through its administration and construction of the ITAX ordinance, has violated certain Constitutional rights and safeguards of income real estate owners as enumerated herein.

This non-uniform taxation gives an undue economic advantage to owners residing in other counties over Multnomah County resident income property owners which becomes punitive to those Multnomah County resident Owners of Multnomah County Income Real Estate (OMCIRE). This "comparative advantage" becomes particularly onerous for Multnomah County resident OMCIRE who derive the bulk of their retirement income from income real estate within Multnomah County. Appellant is in this class of "OMCIRE" citizens.

#### **Introduction and Claims of this appeal:**

**1. Denial of Due Process:** The Due Process Clause of the Fourteenth Amendment to the U.S. Constitution prohibits laws that are arbitrary, or which deprive any person of a property interest without sufficient procedural safeguards. More specifically the ITAX ordinance, by reference to ORS residency, has ignored the arbitrary nature of not taxing people who may live in Clackamas County but own income real estate in Multnomah County. It also takes leased income real estate in other counties from owners Multnomah County resident owners. Clackamas County residents of OMCIRE enjoy an immunity to the tax whereas Multnomah County OMCIRE are penalized by the ITAX for their owning income real estate for retirement income in Multnomah County. Income producing real estate is the only instance where this disparity exists due to the ITAX.

The ITAX also arbitrarily penalizes triple net lease holders of OMCIRE within Multnomah County. This arbitrary penalty manifests itself in the form of reduced income by impairing previously established contracts and obligations which are discussed in more detail later in this appeal.

**2. Equal protection:** Appellant is entitled to equal protection under the 14th Amendment. The Appellant is not receiving equal treatment with other owners of income real estate in Multnomah County as discussed below. Emphasis here is drawn to a US Supreme Court ruling that the Justices ruled: "this Court may invoke to invalidate ordinances by which municipal governments seek to solve their local problems."

RAILWAY EXPRESS AGENCY, INC. ET AL. v. NEW YORK,  
SUPREME COURT OF THE UNITED STATES 336 U.S. 106, January  
31, 1949, Decided.

(MR. JUSTICE JACKSON, concurring.)

There are two clauses of the Fourteenth Amendment which

this Court may invoke to invalidate ordinances by which municipal governments seek to solve their local problems.

One says that no state shall "deprive any person of life, liberty, or property, without due process of law." The other declares that no state shall "deny to any person within its jurisdiction the equal protection of the laws."

(MR. JUSTICE JACKSON continues:)

"The equal protection clause ceases to assure either equality or protection if it is avoided by any conceivable difference that can be pointed out between those bound and those left free. This Court has often announced the principle that the differentiation must have an appropriate relation to the object of the legislation or ordinance."

Multnomah County enacted the County Income Tax to "*solve their local problem*" with school funding. As demonstrated in the balance of this appeal the Appellant has been given unequal protection under the laws of Oregon by "impairing the obligation of a contract" under Oregon real estate law and pursuant to Article I Section 21 of the Oregon Constitution. (See below)

This appeal document will also show that the ITAX fails to make "*the differentiation must have an appropriate relation to the object of the legislation, or ordinance*".

The differences cited in Jackson's opinion between those "*bound and left free*" are addressed in the balance of this appeal. It will be shown in this appeal that out-of-county resident OMCIRE are "*those left free*" in regard to the Multnomah County resident owners of OMCIRE "*who are bound*". Also Fiehe v. R.E. Householder Co., 125 So. 2, 7 (Fla. 1929).

#### **Oregon Constitutional arguments:**

**3. Article I Section 32. Taxes and duties; uniformity of taxation.** "No tax or duty shall be imposed without the consent of the people or their representatives in the Legislative Assembly; and all taxation shall be uniform on the same class of subjects within the territorial limits of the authority levying the tax." [Constitution of 1859; Amendment proposed by H.J.R. 16, 1917, and adopted by the people June 4, 1917]

a. The class of OMCIRE are entitled to "all taxation shall be uniform on the same class of subjects within the territorial limits" under Article I Section 32 of the Oregon Constitution. Clackamas County residents with OMCIRE do not pay the ITAX even though they are "subjects within the territorial limits" of Multnomah county regarding their commercial real estate interest being subject to Multnomah County property tax, COP Business License Tax, and all the various laws of Multnomah County excepting the ITAX. This constitutes taxation that is non-uniform and therefore violates Art I Sec 32. Also see Mayor of Baltimore vs. Scharf, 54 Md. 499, 519 (1880).

b. The ITAX grants unequal non-uniform taxation by allowing some, but not all, OMCIRE a reduction in the fair market value of their real estate by enactment and enforcement of the ITAX ordinance. This non-uniform taxation stems from the increased costs inherent in the ITAX as OMCIRE owned by Multnomah County residents where no such ITAX cost exists for similar for OMCIRE owned by Clackamas County residents. Also Kazubowski v. Kazubowski, 45 405, 259.

c. Appellant also owns retirement income real estate in Clackamas County which is also taxed under the arbitrary terms of the ITAX of Multnomah County. Again the arguments leveled at the competitive disadvantage and devaluation of Appellant's property relative to like properties in Clackamas County apply. [State v. Green, 232 S.W.2d 897, 903 (Mo. 1950)] I.e. Clackamas County residents do not pay the ITAX on their income real estate in Clackamas County. This places the Appellant's property at a competitive disadvantage in Clackamas County not just Multnomah County. This devaluation of Appellant's property(s) occurs both within and without the "the territorial limits of the authority (Multnomah County) levying the tax".

**4. Article III, Section 11** of the Oregon Constitution prohibits the Legislative branch from delegating authority to determine whether a law applies without "providing a standard to constrain discretion". In this case Multnomah County has constrained discretion arbitrarily without regard to the common class of owners of income real estate within and without the County regardless of county of residence.

a. The essential intent behind ITAX was to tax the personal incomes of broad economic activity within the County including wages, investments, and all personal income. A *privilege* and *immunity* was created by not adopting a standard to "constrain discretion" between non-Multnomah County resident owners of OMCIRE. Pettit v. Penn., La.App., 180 So.2d 66, 69.

b. Out of state owners of OMCIRE are exempt from the ITAX since they are not residents of Multnomah County. Again, the ITAX grants unequal and non-uniform taxation by not adopting a standard to "constrain discretion" between non-Multnomah County resident OMCIRE and residents of Multnomah County. Vaughn v. State, 3 Tenn. Crim. App. 54, 456 - 879, 883.

**5. Article I, Section 20** of the Oregon Constitution prohibits any law that grants "to any citizen or class of citizens privileges, or immunities, which upon the same terms shall not equally belong to all citizens." The ITAX as constructed and administered violates Article I and Section 20 in the following ways:

a. The class of OMCIRE are penalized for owning income real estate if they are residents of Multnomah County, while Clackamas County residents with income real estate in Multnomah County are not taxed. This creates "*privileges*" and "*immunities*" within this class of citizens. Clackamas residents owning income real estate in Multnomah County are *immune* and *privileged* while that same class of income real estate owners are penalized by the ITAX if they are Multnomah County residents.

b. The ITAX ordinance, as constructed and administered, is arbitrary and fails to recognize the *privileges* and *immunities* created under this tax. It is arbitrary, under Article I, Section 20, in that it arbitrarily treats owners of income real estate in Multnomah County preferentially depending on the owner's county of residence without regard to sources of income and contractual obligations inherent in income producing real estate both within and without Multnomah County. (See Section 6. Economic Consequences)

c. The ITAX grants unequal *privileges* and *immunities* by creating some, but not all, owners of OMCIRE a reduction in the fair market value of their real estate by enactment and enforcement of the ITAX ordinance. These unequal privileges stem from the increased costs inherent in the ITAX from the income real estate in Multnomah owned by Multnomah County residents where no such ITAX cost exists for similar OMCIRE for Clackamas County residents. Kulko v. Superior Court, 436 U.S. 84 (1978). (See item 6.)

d. Argument "c." applies in reverse as well. I.e. Multnomah residents owning Clackamas County income producing real estate are taxed on their income from that Clackamas County real estate whereas Clackamas county residents are not so taxed. The result is the creation of a 'privilege' and 'immunity' for Clackamas County residents owning income real estate in either or both counties. Argument "c." above applies again and creates an additional *immunity* that "*shall not equally belong to all citizens.*" as provided in Article I Section 20. This class of Clackamas County and Multnomah County OMCIRE are the same regardless of county of residence.

e. Non-Multnomah County residents gain a *privileged* position by being afforded all the benefits of public services for the Multnomah County income real estate that Multnomah county residents receive but without paying the proportionate ITAX. While this tax is presumably restricted to school funding it can still be seen that a commercial income property, such as a convenience store, will benefit from the ITAX funding which could conceivably be pivotal in keeping the neighborhood school and resultant customer base intact. This reinforces the granting of prohibited acts "to any citizen or class of citizens privileges, or *immunities*, which upon the same terms shall not equally belong to all citizens." under Article I Section 20.

f. This common class of citizens owning commercial/income producing real estate in Multnomah County, regardless of county of Residence, share at least 13 common citizen obligations and benefits. That is, their real property derives the same benefit of public services, (fire protection, police, parks, street lighting, school, etc), as 'entitlements' from the obligation of real estate taxes. These obligations include, but are not limited to, paying the following property taxes regardless of county of residence:

- 1.) Multnomah County ESD
- 2.) Portland Community College
- 3.) Portland School District #1
- 4.) Port of Portland
- 5.) City of Portland
- 6.) Metro
- 7.) City of Portland Child Loc Op
- 8.) City of Portland Parks Loc Op
- 9.) Mult Co. Library Local Opt Tax
- 10.) Portland Fire/Police Pension
- 11.) Urban Renewal - Portland
- 12.) Metro and Multnomah County Bonds
- 13.) Tri-Met, Portland Community College and PSD #1 Bonds

In addition these OMCIRE, regardless of county of residence, also pay the City of Portland Business License Tax on their commercial real estate income. Multnomah County, in linking OMCIRE to the financing of school funding, violated Article I Section 21. concerning *ex-post facto* laws; "*laws impairing contracts*" by exempting out-of-county OMCIRE from the ITAX. This created an unequal protection under the law as cited above by impairing the contract between the Appellant and out-of-County OMCIRE. The only way the class of OMCIRE can be distinguished is now by those OMCIRE that live outside Multnomah County and are not subject to the ITAX. I.e. The ITAX fractured the longstanding class of OMCIRE. Prior to this exemption created by ITAX all other tax on income producing real estate was uniform including the City of Portland Business Tax levied on out of county residents. Article I Section 21 is quoted below:

**Article I Section 21.** "Ex-post facto laws; laws impairing contracts; laws depending on authorization in order to take effect; laws submitted to electors. No *ex-post facto* law, or law impairing the obligation of contracts shall ever be passed, nor

shall any law be passed, the taking effect of which shall be made to depend upon any authority, except as provided in this Constitution; provided, that laws locating the Capitol of the State, locating County Seats,.....”

g. The ITAX as administered, violates Appellant's rights under Article I Section 21. of the Oregon Constitution: "impairing the obligation of contracts" in the following ways:

h. Appellant's long standing triple net lease on his OMCIRE was signed prior to the adoption of the ITAX and Lessee agreed to pay property tax, insurance, and maintenance as a "NNN" (triple net) lease. This ITAX is an ex-post facto law that impairs Appellant's/Lessor's ability to recover the cost of the ITAX from the Lessee. This ITAX has been inserted mid-term in the Appellant's lease with no recourse to recover said ITAX costs from Lessee.

i. Said ITAX cost puts Appellant's property at a competitive disadvantage with similar OMCIRE (triple net leased commercial property). This disadvantage is created as a result of the inconsistent County tax policy in regard to the prior COP Business License Tax which does not create favor with out-of-Multnomah County residents. The ITAX is the first tax in Multnomah County on income producing real estate to "impair the obligation of contracts" as prohibited under Article I Section 21.

j. Said competitive disadvantage devalues Appellant's OMCIRE asset through the conventional "return on investment" analysis due to the higher cost inherent in the ex-post facto ITAX relative to non-resident OMCIRE. (see economic analysis below in item 6.) There is no comparable devaluation of assets for wage earners, interest earners or dividend recipients subject to the ITAX.

**6. Economic Consequences of ITAX:** The essential intent behind ITAX was to tax the personal incomes of broad economic activity within the County including wages, investments, and all personal income. It un-intentionally created a *privilege and immunity* by not creating a standard to "*constrain discretiori*" between non-Multnomah County resident owners of income real estate. The bulk of County revenue derived from income taxed under ITAX is wages and actual earned income as opposed to interest, dividends, or lease income. Appellant's income is derived 90% from lease income from income producing real estate both within and without Multnomah County. Appellant has suffered a loss in his primary assets as a result of the arbitrary nature of the ITAX. The specific way and amount of this loss is calculated as follows:

Income producing real estate's value is determined by capitalizing, or "capping", the current "cap" rate of that income to determine a market value. This has been for scores of years and continues to be expressed as "dividing the net income by the cap rate to determine the market value of the real estate. Purchasers and sellers use this "cap" rate as a method of determining purchase or selling price. The current "cap" rate for like property's to Appellant's office building is 7%. Given these factual real estate principles and practices the current ITAX extracted from the Appellant yields the following calculation.....

\$455.00 ITAX divided by .07 = \$6,500.00

This \$6,500.00 is \$6,500 less value in the commercial property because it reduces the net income to the owner by \$455. Therefore a triple net leased property that produces \$30,000 per year in net income now only produces  $\$30,000 - \$455.00 = \$29,545$  in net income. Verifying the above calculation of market value based on capping the income at the current 7% yields:

**Before ITAX net income = \$30,000**  
Capping this \$30,000 @ 7% = \$428,571.41 Market Value

**After ITAX net income = \$30,000 - \$455 = \$29,545**  
Capping this \$29,545 @ 7% = \$422,071.42 Market Value

\$428,571.41 Market Value (before ITAX)  
\$422,071.42 Market Value (after ITAX)  
\$ 6,500.00 difference in Market Value

As can be seen from this analysis the Appellant has suffered a \$6,500 decrease in his primary asset as the direct result of the County reducing the net income from his triple net lease through the imposition of the ITAX. These numbers are factual and apply to the Appellant's specific triple net leased property in the City of Portland. No such loss of asset is accrued to wage earners or other earned income earners. This same reduction in asset value occurs on income real estate owned in other counties as a result of the ITAX for those owners who reside in Multnomah County. It was not the spirit nor the intent of the ITAX to devalue Multnomah County residents' real estate values both within and without Multnomah County.

For the County to continue to consciously administer the ITAX against a select class of citizens within its territorial limits when it has been shown to lower their primary assets is not in the public interest.

**7. Entitlement to Representation:** The Appellant has, over the last two years, attempted to negotiate a sale of his OMCIRE only to discover that while interest rates are favorable the County ITAX has reduced his market value by \$6,500 through administering the ITAX. Rather than attempt to recover this \$6,500 from the County the Appellant has elected to seek relief from and a refund of the \$455.00 ITAX paid each year. (less the out-of-school-district refund.) The County could make this refund by acknowledging that the Appellant had the 'entitlement to representation' given by the County in its website Q&A regarding "*part year residents*" referenced previously in this appeal. I.e. Appellant was entitled to believe that representation regarding '*part year residency*' and is not obligated to research State law to verify its accuracy.

All OMCIRE pay the City of Portland Business License Tax regardless of their county of residence. I.e. Residents of Clackamas County who are OMCIRE pay the City of Portland Business License Tax on the income from their OMCIRE which is essentially another real estate tax. Appellant pays the City of Portland Business License Tax on his OMCIRE lease income. Since all like leased commercial properties in the City of Portland are in the same competitive market all owners in that market pay the same taxes except now the ITAX has impaired Appellant's lease agreement by increasing Appellant's tax obligations and associated leasing costs which reduces Appellant's asset value. (See item 6. above.)

For the reasons stated above Appellant requests the appeal be granted and that Appellant be relieved of paying the ITAX on Appellant's income derived from real estate in both Multnomah County and Clackamas County and that all said taxes paid to date be refunded to Appellant. In

the alternative Appellant requests the County, if it elects to retain the Appellant's ITAX, reimburse Appellant \$6,500 for loss in value during the two year period that Appellant attempted to sell his OMCIRE.

Appellant has previously included payment of the alleged balance of \$290.00 under separate cover as requested on the payment form attached to your referenced "Letter of Final Determination" and subsequent billing of July 1, 2005. Appellant forwarded that payment to Multnomah County in good faith and without prejudice so that in the event Appellant's appeal is not granted there will be no penalties or interest incurred. That payment was not made with any consent that the tax is due.

Sincerely,



Nick Steffanoff - Appellant  
2 Preakness Court  
Lake Oswego Or. 97035-1405

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



MULTNOMAH  
COUNTY

June 28, 2005

**Final Letter of Determination**

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

Based on the evidence submitted, the Administrator has determined that you are a Multnomah County resident for the 2004 tax year as defined in § 11-605 and subject to the ITAX under § 11-625.

Residency is determined by your primary state of residence. Temporary absence from your primary residence does not constitute part-year residency. You are using your Lake Oswego address as your permanent mailing address. In addition, you are registered to vote as Multnomah County residents and you use your Multnomah County residence for DMV purposes. You also file your Oregon income tax returns as full-year residents.

You have 30 days from the date of this letter to pay this billing or to file a written notice of appeal. If you file a written notice of appeal within the 30 days allowed by the administrative rules, you must then file a written statement with the facts and legal issues relating to your appeal to the Multnomah County Board of Commissioners within 90 days from the date of this letter.

You may refer to "Your Right to Appeal" for information regarding the content of this statement or call the Help Desk at (503) 988-ITAX (4829) for any clarification.

DETACH AND RETURN WITH PAYMENT



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

ACCOUNT #	DUPLICATE	DUPLICATE	DUPLICATE	DUPLICATE
26481031546				
26481031555		7/28/05		\$455.00

TAX YEAR 2004

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

AMOUNT ENCLOSED

\$

DENUE STEFFANOFF & KAREN STEFFANOFF  
2 PREAKNESS CT  
LAKE OSWEGO OR 97035-1405

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

# ITAX

Administrator shall have the authority, after notice, to require verification of taxpayer information in order to carry out the provisions of this subchapter.

## § 11-611 Deficiencies and Refunds.

Deficiencies may be assessed and refunds granted any time within the period provided under ORS 314.410, 314.415, and 317.950. The Administrator may by agreement with the taxpayer extend such time periods to the same extent as provided by statute.

## § 11-612 Changes to Federal or State Tax Returns.

- (A) If a taxpayer's reported net income under applicable state laws imposing a tax on or measured by income is changed by the Federal Internal Revenue Service or the Oregon Department of Revenue, or amended by the taxpayer to correct an error in the original federal or state return, a report of such change shall be filed with the Administrator within 60 days after the date of the notice of the final determination of change or after an amended return is filed with the federal or state agencies. The report shall be accompanied by an amended tax return with respect to such income and by any additional tax, penalty, and interest due.
- (B) The Administrator may assess deficiencies and grant refunds resulting from changes to federal, state or business income tax returns within the time periods provided for in § 11-611 of this subchapter, treating the report of change in federal, state or business income tax returns as the filing of an amended tax return.
- (C) The Administrator may assess penalties and interest on the additional tax due as provided in §§ 11-623 and 11-624 of this subchapter or may refuse to grant a refund of taxes as a result of the amended return if the amended return is not filed with the Administrator within the time limits set forth in division (A) of this section.

## § 11-613 Settlement Offers and Agreements.

The Administrator may, upon good and sufficient cause make settlement agreements with taxpayers in the recomputation of taxes payable or in the collection thereof. Such agreements shall be consistent with ORS §§ 305.150 and 305.155 and corresponding OARS. Applications for settlement offers will be provided by the Administrator to taxpayers proposing settlement offers.

## § 11-614 Appeal Rights.

- (A) Any determination of the Administrator may be protested by the taxpayer. Written notice of the protest must be received by the Administrator or designee within 30 days after the notice of determination was mailed or delivered to the taxpayer. The protest shall state the name and address of the taxpayer and an explanation of the grounds for the protest. The Administrator shall respond within 30 days after the protest is filed with the Administrator with either a revised determination or a final determination. The Administrator's determination shall include the reasons for the determination and state the time and manner for appealing the determination. The time to file a protest or the time for the Administrator's response may be extended by the Administrator, for good cause. Requests for extensions of time must be received prior to the expiration of the original 30 day protest deadline. Written notice shall be given to the taxpayer if the Administrator's deadline is extended.

## ITAX

- (B) Any final determination by the Administrator may be appealed by the taxpayer to the Multnomah County Board of Commissioners. Written notice of the appeal must be received by the Administrator within 30 days after the final determination was mailed or delivered to the appellant. The notice of appeal shall state the name and address of the appellant and include a copy of the final determination.
- (C) Within 90 days after the final determination was mailed or delivered to the tax filer, the appellant shall file with the Multnomah County Board of Commissioners a written statement containing:
- (1) The reasons the Administrator's determination is incorrect; and
  - (2) What the correct determination should be.
- Failure to file such a written statement within the time permitted shall be deemed a waiver of any objections, and the appeal shall be dismissed.
- (D) Within 150 days after the final determination was mailed or delivered to the taxpayer, the Administrator shall file with the Multnomah County Board of Commissioners a written response to the appellant's statement. A copy of the Administrator's response shall be promptly mailed to the address provided by the appellant.
- (E) The appellant shall be given not less than 7 days prior written notice of the hearing date and location. The appellant and the Administrator shall have the opportunity to present relevant testimony and oral argument.
- (F) The decision of the Multnomah County Board of Commissioners shall be final and no further administrative appeal shall be provided.

### § 11-615 Individuals Required to File Tax Returns

- (A) Every resident of Multnomah County who is required to file an Oregon income tax return for the taxable year is required to file an ITAX return.

Nothing contained in this section shall preclude the Administrator from requiring any individual to file a return when, in the judgment of the Administrator, a return should be filed.

- (B) The return to be filed shall be a one page Form MC TR. The Administrator will release the form to the public by December 15<sup>th</sup> of the taxable year. Substitute forms (such as created by tax software) shall be accepted provided the forms include identical information in comparable format as provided on Form MC TR.

- (1) Unless requested by the Administrator, no copy of the federal or state of Oregon return is required to be filed with Form MC TR. If ITAX has been withheld from wages, a copy of Form W-2 is required to be filed with the ITAX return unless otherwise notified by the Administrator.
- (C) A husband and wife shall make a joint return with respect to the ITAX even though one of the spouses has neither gross income nor deductions, except that:
  - (1) No joint return shall be made if the spouses are not permitted to file a joint Oregon income tax return.

All notes on 26481031546 as of 7/21/05:

7/11/04 - Account issued a double taxation refund on 7/9/2004, check number 11011236, in the amount of \$320.68

6/16/05 - AN ADJUSTED BALANCE DUE LETTER WAS SENT TO TAXPAYER ON 6/16/2005.

6/28/05 - P116 LETTER WAS CREATED ON 6/28/2005 BY LCJULIE.

6/28/05 - Rec'd correspondence from tp's stating that they are only partyr residents since they spend half the year in CA. However, they still use OR for voting, DMV and file full-yr OR rtn. Sent Final Letter of Det saying they are not part-yr residents. Also indicated that they would be amending 03 MCTR as part-yr. THAT REFUND SHOULD BE DENIED.

7/1/05 - BILLING LETTER FOR TY 2004 WAS CREATED ON 7/1/2005 BY NIGHTLY BILLING JOB.

7/8/05 - idver-tp rec'd p116 and p8. confused as to what he shd pay. while xferring to julie, tp hung up. so, as per julie, ADV TP TO PAY TAX ONLY, and req pen waiver in writing w/ pmnt. julie will se about waiving pen.

7/11/05 - chk 3412 for 290 submitted prior to 7/15 - need to reallocate PR at 5pct. fwd'd to supervisor. will fwd to MF for add'l p waiver upon completion.

7/13/05 - Okay to waive full 2004 penalty per Satish.

7/13/05 - RECEIVABLE ID# 76078 MARKED AS PAID BY LCJULIE ON 7/13/2005.

7/21/05 - Rec'd 8-page constitutional appeal - forwarded directly to Satish and MC attorney.

7/21/05 - RECEIVABLE ID# 76078 MARKED AS PAID BY LCJULIE ON 7/21/2005.

Account Search

New Tax Doc

Individual Acct Summary

Employer Acct Summary

Letters

### Account Summary

SSN: 541-44-6639 First Name: DENLIE MI Last Name: STEFFANOFF Show Account # (no dashes): 25487031546

Street #: 2 Dir: Street Name: PREAKNESS Type: CT Post Dir: Lookup Account: Egt

Unit Type: Unit #: City: LAKE OSWEGO State: OR Postal Code: 97035 Plus 4: 1405 Create Account: Refresh

Home Phone: 5038675-0463 PGE PGE Phone: Status: Created On: School District Credit: 8/3/2004

Account Rep: JOANNE PARKER Acct Rep Phone: 503867-967 Save Changes: Save Credit Rpt: Letters

Reporting Periods/Mailing Address	Payments	Documents																																										
Notes	Correspondence	Receivable Summary																																										
<table border="1"> <thead> <tr> <th>Create Date</th> <th>Created By</th> <th>Type</th> <th>Req'd Response Comment</th> <th>Response Due</th> <th>Resp. Rep.</th> </tr> </thead> <tbody> <tr> <td>7/1/2005</td> <td>ADMIN</td> <td>System billed</td> <td>Contact after date</td> <td>8/1/2005</td> <td>JOANNE PARKER</td> </tr> <tr> <td colspan="6">BILLING LETTER FOR TY 2004 WAS CREATED ON 7/1/2005 BY NIGHTLY BILLING JOB</td> </tr> <tr> <td>6/28/2005</td> <td>LCJULIE</td> <td>Correspondence from</td> <td>NA/Unknown</td> <td></td> <td></td> </tr> <tr> <td colspan="6">Rec'd correspondence from tp's stating that they are only part-yr residents since they spend half the year in CA. However, they still use OR for voting, DMV and file full-yr DR r/n. Sent Final Letter of Det saying they are not part-yr</td> </tr> <tr> <td>6/28/2005</td> <td>LCJULIE</td> <td>Final Determination</td> <td>Contact after date</td> <td>6/28/2005</td> <td></td> </tr> <tr> <td colspan="6">P116 LETTER WAS CREATED ON 6/28/2005 BY LCJULIE</td> </tr> </tbody> </table>	Create Date	Created By	Type	Req'd Response Comment	Response Due	Resp. Rep.	7/1/2005	ADMIN	System billed	Contact after date	8/1/2005	JOANNE PARKER	BILLING LETTER FOR TY 2004 WAS CREATED ON 7/1/2005 BY NIGHTLY BILLING JOB						6/28/2005	LCJULIE	Correspondence from	NA/Unknown			Rec'd correspondence from tp's stating that they are only part-yr residents since they spend half the year in CA. However, they still use OR for voting, DMV and file full-yr DR r/n. Sent Final Letter of Det saying they are not part-yr						6/28/2005	LCJULIE	Final Determination	Contact after date	6/28/2005		P116 LETTER WAS CREATED ON 6/28/2005 BY LCJULIE							
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**BOGSTAD Deborah L**

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**From:** NATH Satish S  
**Sent:** Tuesday, October 11, 2005 2:07 PM  
**To:** BOGSTAD Deborah L; BOYER Dave A; SOWLE Agnes; WEBER Jacquie A  
**Subject:** RE:

The Steffanoff ITAX appeal was for tax year 2004. Nick and Karen filed and paid \$125.00 on 4/12/2005. The itax paid was short of \$455.00. We sent an adjustment notice on 6/16/2005 for \$455.00 and a final letter of determination of 6/28/05 which he appealed. The eight page appeal document had no mention of his short filing of \$455.00...which he has now paid in full. Thus their 2003 and 2004 itax are paid.

The appeal which started from "short payment" made a turn towards ITAX legality, double taxations, BIT, etc. I am glad it is over!!!

Thanks.

Satish Nath  
Department of County Management  
[satishwar.s.nath@co.multnomah.or.us](mailto:satishwar.s.nath@co.multnomah.or.us)  
Ph. (503) 988-3432

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

**From:** BOGSTAD Deborah L  
**Sent:** Tuesday, October 11, 2005 1:48 PM  
**To:** BOYER Dave A; SOWLE Agnes; WEBER Jacquie A  
**Cc:** NATH Satish S  
**Subject:**  
**Importance:** High

Dave, Agnes, I know you think that the Steffanoff ITAX appeal is for tax year 2003, but when I got the paperwork to do up the agenda placement documentation, I utilized the ITAX administrator's notice, just as I did for the James Pham case, and it states 2004. If I made an error do you want me to do anything about the APR and Board meeting agenda title below? If it is 2004 I'll correct the order prepared by Jacquie and try to get signatures tomorrow. Thanks.

**PUBLIC HEARING and Board Decision of Taxpayers Denu (Nick) Steffanoff and Karen Steffanoff's Appeal of the Administrator's Final Determination Regarding their 2004 Multnomah County Income Tax (ITAX) Obligations Pursuant to ITAX Administrative Rule 11-614 (Continued from September 22, 2005)**

**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](mailto:deborah.l.bogstad@co.multnomah.or.us)**  
**<http://www.co.multnomah.or.us/cc/index.shtml>**

10/11/2005

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDER NO. 05-167**

Order Denying Appeal of ITAX Administrator's Final Determination

**The Multnomah County Board of Commissioners Finds:**

- a. Nick Steffanoff and Karen Steffanoff timely filed a Notice of Appeal from the Administrator's Final Letter of Determination of their 2004 Multnomah County Income Tax.
- b. Appellants originally challenged the Administrator's determination that they are full time residents of Multnomah County for purposes of the Multnomah County Income Tax (ITAX). In a written submission dated July 16, 2005 Appellants concede the Administrator's determination of residency status.
- c. Appellants also challenge the imposition of the ITAX as unconstitutional because it affects owners of Multnomah County income real estate differently, depending upon whether the owner is a Multnomah County resident, or resides outside Multnomah County, and challenges the fact that because they own income producing property in Multnomah County they are also subject the Multnomah County Business Income Tax (MCBIT).
- d. Appellants seek an exception, in the form of administrative relief, from the requirement to pay both the MCBIT and the ITAX on income from the same income producing property because Appellants are retired and are not in business.
- e. The imposition of both the ITAX and the MCBIT on Appellants income from income producing property is lawful.
- f. It is not appropriate to allow Appellants an exemption from the ITAX.

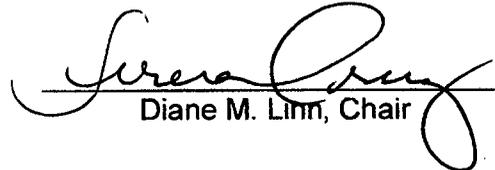
**The Multnomah County Board of Commissioners Orders:**

Nick Steffanoff and Karen Steffanoff's Appeal of the Administrator's determination of their 2004 Multnomah County Income Tax liability is denied.

ADOPTED this 6th day of October, 2005.

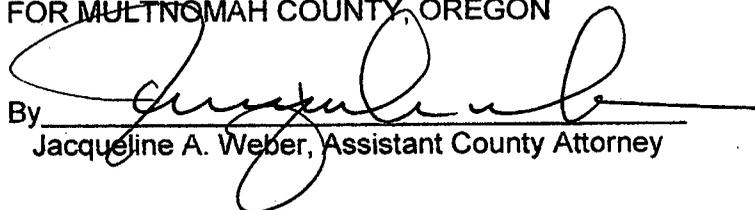


BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Jacqueline A. Weber, Assistant County Attorney



**Deborah Bogstad, Board Clerk**

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**MULTNOMAH COUNTY OREGON**

---

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

October 12, 2005

Denué Steffanoff and Karen Steffanoff  
2 Preakness Court  
Lake Oswego, OR 97035-1405

**RE: MULTNOMAH COUNTY INCOME TAX APPEAL**  
[Account Numbers 26481031546 and 26481031555]

Greetings:

As directed following your hearing last Thursday, I am providing you with a copy of Order 05-167 denying appeal of the ITAX administrator's final determination regarding your 2004 Multnomah County Income Tax liability.

Sincerely,

  
Deborah L. Bogstad, Board Clerk  
Multnomah County Commissioners

enclosure

cc: Dave Boyer  
Jacquie Weber

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDER NO. 05-167**

Order Denying Appeal of ITAX Administrator's Final Determination

**The Multnomah County Board of Commissioners Finds:**

- a. Nick Steffanoff and Karen Steffanoff timely filed a Notice of Appeal from the Administrator's Final Letter of Determination of their 2004 Multnomah County Income Tax.
- b. Appellants originally challenged the Administrator's determination that they are full time residents of Multnomah County for purposes of the Multnomah County Income Tax (ITAX). In a written submission dated July 16, 2005 Appellants concede the Administrator's determination of residency status.
- c. Appellants also challenge the imposition of the ITAX as unconstitutional because it affects owners of Multnomah County income real estate differently, depending upon whether the owner is a Multnomah County resident, or resides outside Multnomah County, and challenges the fact that because they own income producing property in Multnomah County they are also subject the Multnomah County Business Income Tax (MCBIT).
- d. Appellants seek an exception, in the form of administrative relief, from the requirement to pay both the MCBIT and the ITAX on income from the same income producing property because Appellants are retired and are not in business.
- e. The imposition of both the ITAX and the MCBIT on Appellants income from income producing property is lawful.
- f. It is not appropriate to allow Appellants an exemption from the ITAX.

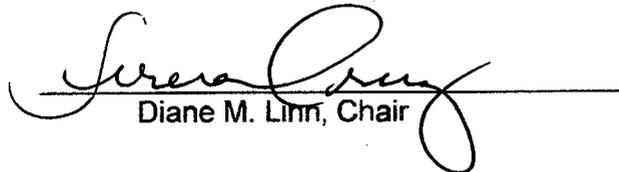
**The Multnomah County Board of Commissioners Orders:**

Nick Steffanoff and Karen Steffanoff's Appeal of the Administrator's determination of their 2004 Multnomah County Income Tax liability is denied.

ADOPTED this 6th day of October, 2005.

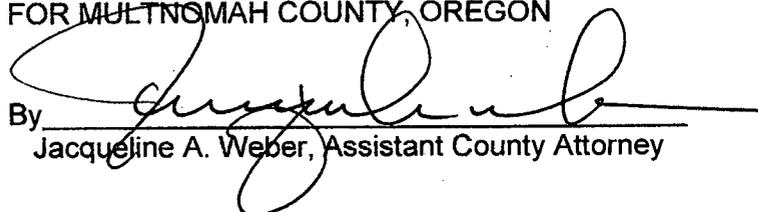


BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Jacqueline A. Weber, Assistant County Attorney



**MULTNOMAH COUNTY  
AGENDA PLACEMENT REQUEST**

**Board Clerk Use Only**

**Meeting Date:** 10/06/05  
**Agenda Item #:** R-5  
**Est. Start Time:** 10:30 AM  
**Date Submitted:** 09/12/05

**BUDGET MODIFICATION:** -

**RESOLUTION Designating the DUII Evaluation Program of the Multnomah County Department of County Human Services Mental Health and Addiction Services Division as the Agency to Perform Screening Interviews and Diagnostic Assessments for Purposes of the Driving Under the Influence of Intoxicants**  
**Agenda Title: Statute and Approving of Evaluation Fees and Fee Waivers**

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

<b>Date Requested:</b>	<u>October 6, 2005</u>	<b>Time Requested:</b>	<u>5 mins</u>
<b>Department:</b>	<u>DCHS</u>	<b>Division:</b>	<u>MHASD</u>
<b>Contact(s):</b>	<u>Alan Stickel</u>		
<b>Phone:</b>	<u>503 988-4135</u>	<b>Ext.:</b>	<u>84135</u>
		<b>I/O Address:</b>	<u>Lincoln Bldg 167/620</u>
<b>Presenter(s):</b>	<u>Ray Hudson, Nancy Winters, Patrick Henry</u>		

**General Information**

**1. What action are you requesting from the Board?**

DCHS would like the Board to approve the attached resolution reflecting an increase in the DUII fees as enacted by the State Legislature with SB 114.

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

The legislatively approved fees associated with screening interviews and diagnostic assessments for purposes of driving under the influence of intoxicants have been changed during the past legislative session. SB114 increased the fees from \$90.00 to \$150.00 effective July 1, 2005. The attached resolution provides the DUII Evaluation Program of the Multnomah County Department of County Human Services Mental Health and Addiction Services Division ("DUII Evaluation Program") the authority to increase the fees they charge from \$90.00 to \$150.00.

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

The fiscal impact will be an increase in fee revenue of \$88,307 and a corresponding reduction in the County General Funds that are currently used by this program. DCHS Bud Mod #8 incorporates this change in sources of revenue.

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

It has been the long standing policy of the Board that people who are convicted of driving under the influence of alcohol or who file a petition to enter a diversion program should pay the legislatively approved fees associated with the required screening interviews and diagnostic assessments unless they are financially unable to do so.

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

The Oregon Legislature, SB 114, has enacted this fee change.

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**Required Signatures**

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**Department/  
Agency Director:**

*Pat Surface*

**Date:** 09/12/05

**Budget Analyst:**

**Date:**

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. \_\_\_\_\_

Designating The DUII Evaluation Program Of The Multnomah County Department Of County Human Services Mental Health And Addiction Services Division As The Agency To Perform Screening Interviews And Diagnostic Assessments For Purposes Of The Driving Under The Influence Of Intoxicants Statute And Approving Of Evaluation Fees And Fee Waivers

**The Multnomah County Board of Commissioners Finds:**

- a. The legislatively approved fees associated with screening interviews and diagnostic assessments for purposes of the driving under the influence of intoxicants statute has been the same for approximately 15 years. The 2005 Oregon Legislature enacted Chapter 303, 2005 Oregon Laws (SB 114) effective July 1, 2005, increasing the fees from \$90 to \$150.
- b. As amended, ORS 813.021(1)(b) provides that when the court requires a person to complete a screening interview and treatment program, the court shall order the person to pay directly to the agency or organization conducting the screening interview a fee of \$150.
- c. As amended, ORS 813.240(2) provides that when a person files a petition for a driving under the influence of intoxicants diversion agreement, the court shall order the person to pay directly to the agency or organization providing the diagnostic assessment a fee of \$150.
- d. Pursuant to ORS 813.021(2) and ORS 813.260(1), the Multnomah County Circuit Court has designated the DUII Evaluation Program of the Multnomah County Department of County Human Services Mental Health and Addiction Services Division ("DUII Evaluation Program") as the agency to perform the screening interviews and diagnostic assessments required under the driving under the influence of intoxicants statute.
- e. Because of its experience and expertise in doing the screening interviews and diversion program assessments, the Board wishes to have the DUII Evaluation Program continue to do the interviews and assessments on behalf of the Circuit Court.
- f. It is the policy of the Board that people who are convicted of driving under the influence of alcohol or who file a petition to enter a diversion program should pay the legislatively approved fees associated with required screening interviews and diagnostic assessments unless they are financially unable to do so.
- g. Multnomah County currently supplements the budget of the DUII Evaluation Program with county general funds. If the DUII Evaluation Program does not collect the statutorily approved fee, the Board would be required to provide

additional funding to the DUII Evaluation Program with funds that are needed for other programs.

- h. The Board does not wish to provide additional funding to the budget of DUII Evaluation Program unless the DUII Evaluation Program determines that the person requiring the screening interview or diagnostic assessment is financially unable to pay the required fee.

**The Multnomah County Board of Commissioners Resolves:**

1. To the extent that the Multnomah County Circuit Court continues to designate Multnomah County as the agency or organization to perform screening interviews and assessments, the DUII Evaluation Program shall do the screening interviews and assessments on behalf of the Circuit Court.
2. DUII Evaluation Program shall charge and collect a \$150 fee prior to conducting screening interviews and diagnostic assessments unless the DUII Evaluation Program determines that the person requiring the screening interview or diagnostic assessment is financially unable to pay the required fee.
3. DUII Evaluation Program shall develop and implement appropriate criteria for granting partial or complete fee waivers in relation to screening interviews and diagnostic assessments.

ADOPTED this 6<sup>th</sup> day of October, 2005.

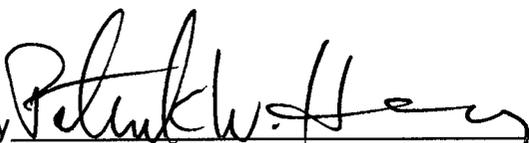
BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Patrick W. Henry, Assistant County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 05-168**

Designating the DUII Evaluation Program of the Multnomah County Department of County Human Services Mental Health and Addiction Services Division as the Agency to Perform Screening Interviews and Diagnostic Assessments for Purposes of the Driving Under the Influence of Intoxicants Statute and Approving of Evaluation Fees and Fee Waivers

**The Multnomah County Board of Commissioners Finds:**

- a. The legislatively approved fees associated with screening interviews and diagnostic assessments for purposes of the driving under the influence of intoxicants statute has been the same for approximately 15 years. The 2005 Oregon Legislature enacted Chapter 303, 2005 Oregon Laws (SB 114) effective July 1, 2005, increasing the fees from \$90 to \$150.
- b. As amended, ORS 813.021(1)(b) provides that when the court requires a person to complete a screening interview and treatment program, the court shall order the person to pay directly to the agency or organization conducting the screening interview a fee of \$150.
- c. As amended, ORS 813.240(2) provides that when a person files a petition for a driving under the influence of intoxicants diversion agreement, the court shall order the person to pay directly to the agency or organization providing the diagnostic assessment a fee of \$150.
- d. Pursuant to ORS 813.021(2) and ORS 813.260(1), the Multnomah County Circuit Court has designated the DUII Evaluation Program of the Multnomah County Department of County Human Services Mental Health and Addiction Services Division ("DUII Evaluation Program") as the agency to perform the screening interviews and diagnostic assessments required under the driving under the influence of intoxicants statute.
- e. Because of its experience and expertise in doing the screening interviews and diversion program assessments, the Board wishes to have the DUII Evaluation Program continue to do the interviews and assessments on behalf of the Circuit Court.
- f. It is the policy of the Board that people who are convicted of driving under the influence of alcohol or who file a petition to enter a diversion program should pay the legislatively approved fees associated with required screening interviews and diagnostic assessments unless they are financially unable to do so.

- g. Multnomah County currently supplements the budget of the DUII Evaluation Program with county general funds. If the DUII Evaluation Program does not collect the statutorily approved fee, the Board would be required to provide additional funding to the DUII Evaluation Program with funds that are needed for other programs.
- h. The Board does not wish to provide additional funding to the budget of DUII Evaluation Program unless the DUII Evaluation Program determines that the person requiring the screening interview or diagnostic assessment is financially unable to pay the required fee.

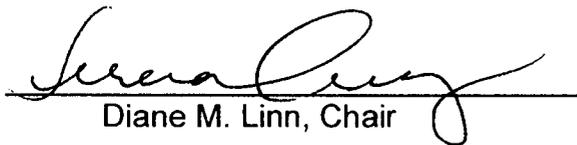
**The Multnomah County Board of Commissioners Resolves:**

- 1. To the extent that the Multnomah County Circuit Court continues to designate Multnomah County as the agency or organization to perform screening interviews and assessments, the DUII Evaluation Program shall do the screening interviews and assessments on behalf of the Circuit Court.
- 2. DUII Evaluation Program shall charge and collect a \$150 fee prior to conducting screening interviews and diagnostic assessments unless the DUII Evaluation Program determines that the person requiring the screening interview or diagnostic assessment is financially unable to pay the required fee.
- 3. DUII Evaluation Program shall develop and implement appropriate criteria for granting partial or complete fee waivers in relation to screening interviews and diagnostic assessments.

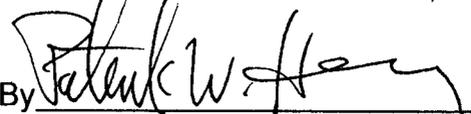
ADOPTED this 6th day of October, 2005.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Diane M. Linn, Chair

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Patrick W. Henry, Assistant County Attorney



**MULTNOMAH COUNTY  
AGENDA PLACEMENT REQUEST**

**Board Clerk Use Only**

Meeting Date: 10/06/05  
 Agenda Item #: R-6  
 Est. Start Time: 10:35 AM  
 Date Submitted: 09/09/05

**BUDGET MODIFICATION: DCHS - 08**

**Budget Modification DCHS-08 Appropriating \$88,307 in the Fed/State Fund Due to Senate Bill 114 (Increasing the A&D DUII Fee to \$150) and Shifting a Like General Fund Appropriation from DCHS to the General**  
**Agenda Title: Fund Contingency**

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

<b>Date Requested:</b>	<u>October 6 or 13, 2005</u>	<b>Time Requested:</b>	<u>5 mins</u>
<b>Department:</b>	<u>Dept. of County Human Services</u>	<b>Division:</b>	<u>Mental Health</u>
<b>Contact(s):</b>	<u>Al Stickel</u>		
<b>Phone:</b>	<u>988-3691</u>	<b>Ext.</b>	<u>84135</u>
		<b>I/O Address:</b>	<u>167620</u>
<b>Presenter(s):</b>	<u>Ray Hudson/Robert Ryan/Chris Yager</u>		

**General Information**

**1. What action are you requesting from the Board?**

The Department of County Human Services recommends approval of budget modification DCHS-08 which increases DUII Fee revenue for program offer 25024 DUII Evaluation and returns a like amount of County General Fund to contingency.

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

State Senate Bill 114 relating to evaluation fees for driving under the influence of intoxicants; and declaring an emergency was enacted and signed by the Governor on June 28<sup>th</sup>, 2005. The bill amends ORS sections 813.021 and 813.240. The bill increases the fees for evaluation screenings services from \$90 to \$150 effective July 1, 2005. This program is currently subsidized by county general fund. The additional fee income enables the program to reduce the amount of County General Fund (CGF) needed to operate the program and return \$88,307 to CGF contingency.

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

This modification increases Mental Health and Addiction Services Division Fed/State Fund appropriation by \$88,307 to reflect the increase in fees. The estimate is based on 217 clients per month times 10 months at 85% plus August & September actual revenue less adopted budgeted revenue. Mental Health and Addiction Services General Fund appropriation decreases by \$88,307 and County General Fund Contingency increases by \$88,307. The annualized estimated fee increase is \$107,039 on-going.

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

ORS 813.021 and 813.240 amended by Senate Bill 114. County Financial Policies require the board to review and approve all changes to fees and charges. A fee resolution from the County Attorney's office to the Board of County Commissioners will be forthcoming.

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

The State of Oregon passed Senate Bill 114; signed by the governor on June 28, 2005.

# ATTACHMENT A

## Budget Modification

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

- What revenue is being changed and why?  
DUII evaluation fee income increases \$88,307 due to the passage of SB 114. General Fund Contingency increases by a like amount.
- What budgets are increased/decreased?  
This modification increases Mental Health and Addiction Services Division Fed/State Fund appropriation by \$88,307 to reflect the increase in fees. Mental Health and Addiction Services General Fund appropriation decreases by \$88,307 and County General Fund Contingency increases by \$88,307.
- What do the changes accomplish?  
Brings the Mental Health and Addiction service budget in line with current revenue estimates and returns county general fund to contingency.
- Do any personnel actions result from this budget modification? Explain.  
No
- How will the county indirect, central finance and human resources and departmental overhead costs be covered?  
No change.
- Is the revenue one-time-only in nature?  
No, this is a permanent increase in fees.
- If a grant, what period does the grant cover?  
N/A
- If a grant, when the grant expires, what are funding plans?  
N/A

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

**ATTACHMENT B**

**BUDGET MODIFICATION: DCHS - 08**

**Required Signatures**

**Department/  
Agency Director:**

*Pat Surface*

**Date:** 09/07/05

**Budget Analyst:**

*Michael D. Gaspin*

**Date:** 09/09/05

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**

Budget Modification or Amendment ID: **DCHS-8**

**EXPENDITURES & REVENUES**

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

Budget/Fiscal Year: 06

Line No.	Fund Center	Fund Code	Func. Area	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
				Internal Order	Cost Center	WBS Element						
1	20-80	40600	40			MA AS DUUI FEES	60000	128,583	187,515	58,932		Base (706855 88.6%)
2	20-80	40600	40			MA AS DUUI FEES	60130	39,307	57,323	18,016		Fringe
3	20-80	40600	40			MA AS DUUI FEES	60140	34,193	45,552	11,359		Insurance
4	20-80	40600	40			MA AS DUUI FEES	50235	(224,461)	(312,768)	(88,307)		Charges for Services
5												
6												
7	20-80	1000	40			MA AS DUUI CGF	60000	275,167	216,235	(58,932)		Base (706855 88.6%)
8	20-80	1000	40			MA AS DUUI CGF	60130	84,120	66,104	(18,016)		Fringe
9	20-80	1000	40			MA AS DUUI CGF	60140	72,113	60,754	(11,359)		Insurance
10												
11												
12	19	1000	20		9500001000		60470		88,307	88,307		General Fund Contingency
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										0	0	GRAND TOTAL

**BOGSTAD Deborah L**

**From:** BELL Iris D  
**Sent:** Tuesday, October 04, 2005 4:08 PM  
**To:** BOGSTAD Deborah L; LINN Diane M; NAITO Lisa H; ROBERTS Lonnie J; ROJO DE STEFFEY Maria; CRUZ Serena M  
**Cc:** SMITH Andy J; WESSINGER Carol M; MARTIN Chuck T; MILES Darcy; FARRELL Delma D; WALKER Gary R; BAESSLER Joseph E; SHIPRACK Judith C; GORDON Kathy; WEST Kristen; CARROLL Mary P; LIEUALLEN Matt; LASHUA Matthew; BEARD Mike; FUSSELL Rob; PAINE Robert E; ROMERO Shelli D; FRAME Stephen J; BOWEN-BIGGS Tara C; NAITO Terri W  
**Subject:** RE: R-6 Budget Modification DCHS #8 for Oct 6  
**Importance:** High

FYI: As you may know, I'm working with the Department on this matter. This will definitely come back to the Board in the very near future. If you have any questions or concerns, please do not hesitate to contact me. Thank you in advance for your consideration.

iris

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

**From:** BOGSTAD Deborah L  
**Sent:** Monday, October 03, 2005 2:19 PM  
**To:** Diane Linn; Lisa Naito; Lonnie Roberts; Maria ROJO DE STEFFEY; Serena Cruz  
**Cc:** Andy Smith; Carol WESSINGER; Chuck Martin; Darcy Miles; Delma FARRELL; Gary Walker; Iris BELL; Joseph BAESSLER; Judith Shiprack; Kathryn GORDON; Kristen WEST; Mary Carroll; Matt LIEUALLEN; Matthew LASHUA; Mike BEARD; Rob FUSSELL; Robert Walker; Shelli Romero; Stephen FRAME; Tara BOWEN-BIGGS; Terri Naito  
**Subject:** FW: R-6 Budget Modification DCHS #8 for Oct 6

See email message below. The Department is requesting that the Board postpone the following Budget Modification indefinitely. They will resubmit at a later date.

DEPARTMENT OF COUNTY HUMAN SERVICES - 10:30 AM

R-6 Budget Modification DCHS-08 Appropriating \$88,307 in the Fed/State Fund Due to Senate Bill 114 (Increasing the A&D DUII Fee to \$150) and Shifting a Like General Fund Appropriation from DCHS to the General Fund Contingency

**AT THE REQUEST OF THE  
DEPARTMENT, MAY I HAVE A  
MOTION TO POSTPONE  
INDEFINITELY?**

**COMMISSIONER \_\_\_\_\_  
MOVES  
COMMISSIONER \_\_\_\_\_  
SECONDS  
TO POSTPONE INDEFINITELY**

**ALL IN FAVOR, VOTE AYE,  
OPPOSED \_\_\_\_?**

**R-6 IS POSTPONED  
INDEFINITELY**

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](mailto:deborah.l.bogstad@co.multnomah.or.us)  
<http://www.co.multnomah.or.us/cc/index.shtml>

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

**From:** YAGER Chris D  
**Sent:** Monday, October 03, 2005 2:05 PM  
**To:** BOGSTAD Deborah L  
**Cc:** SURFACE Rex B  
**Subject:** R-6 Budget Modification DCHS #8 for Oct 6

Per our conversation, the department would like to postpone R-6 Budget Modification #8 and reschedule at latter date. Thank you.

**BOGSTAD Deborah L**

**From:** BOGSTAD Deborah L  
**Sent:** Monday, October 03, 2005 2:19 PM  
**To:** Diane Linn; Lisa Naito; Lonnie Roberts; Maria ROJO DE STEFFEY; Serena Cruz  
**Cc:** Andy Smith; Carol WESSINGER; Chuck Martin; Darcy Miles; Delma FARRELL; Gary Walker; Iris BELL; Joseph BAESSLER; Judith Shiprack; Kathryn GORDON; Kristen WEST; Mary Carroll; Matt LIEUALLEN; Matthew LASHUA; Mike BEARD; Rob FUSSELL; Robert Walker; Shelli Romero; Stephen FRAME; Tara BOWEN-BIGGS; Terri Naito  
**Subject:** FW: R-6 Budget Modification DCHS #8 for Oct 6

See email message below. The Department is requesting that the Board postpone the following Budget Modification indefinitely. They will resubmit at a later date.

**DEPARTMENT OF COUNTY HUMAN SERVICES - 10:30 AM**

R-6 Budget Modification DCHS-08 Appropriating \$88,307 in the Fed/State Fund Due to Senate Bill 114 (Increasing the A&D DUII Fee to \$150) and Shifting a Like General Fund Appropriation from DCHS to the General Fund Contingency

**AT THE REQUEST OF THE DEPARTMENT,  
MAY I HAVE A MOTION TO POSTPONE  
INDEFINITELY?**

**COMMISSIONER \_\_\_\_\_ MOVES  
COMMISSIONER \_\_\_\_\_ SECONDS  
TO POSTPONE INDEFINITELY**

**ALL IN FAVOR, VOTE AYE, OPPOSED \_\_\_\_?**

**R-6 IS POSTPONED INDEFINITELY**

**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](mailto:deborah.l.bogstad@co.multnomah.or.us)  
<http://www.co.multnomah.or.us/cc/index.shtml>**

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

**From:** YAGER Chris D

**Sent:** Monday, October 03, 2005 2:05 PM

**To:** BOGSTAD Deborah L

**Cc:** SURFACE Rex B

**Subject:** R-6 Budget Modification DCHS #8 for Oct 6

Per our conversation, the department would like to postpone R-6 Budget Modification #8 and reschedule at latter date. Thank you.



# MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

APPROVED : MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # R-7 DATE 10.6.05  
DEBORAH L. BOGSTAD, BOARD CLERK

### Board Clerk Use Only

Meeting Date: 10/06/05  
Agenda Item #: R-7  
Est. Start Time: 10:35  
Date Submitted: 09/23/05

### BUDGET MODIFICATION: -

**Agenda Title:** NOTICE OF INTENT to Apply for a Gates Foundation Grant from the Oregon State Library for "Staying Connected"

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

<b>Date Requested:</b>	<u>October 6, 2005</u>	<b>Time Requested:</b>	<u>5 minutes</u>
<b>Department:</b>	<u>Library</u>	<b>Division:</b>	<u>Support Services</u>
<b>Contact(s):</b>	<u>Cindy Gibbon</u>		
<b>Phone:</b>	<u>503 988-5496</u>	<b>Ext.</b>	<u>85496</u>
		<b>I/O Address:</b>	<u>317-Admin</u>
<b>Presenter(s):</b>	<u>Cindy Gibbon and Lance Murty</u>		

### General Information

**1. What action are you requesting from the Board?**

Request approval to apply for a Gates Foundation grant through the Oregon State Library to partially fund the replacement of PCs for the public to use at library locations. We received notification of the October 14<sup>th</sup> application deadline on September 19<sup>th</sup>, so we are requesting an exception to the agenda submission timeline.

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

In October 2004 the Gates Foundation awarded the Oregon State Library a matching grant of \$135,000 to provide public libraries the opportunity to upgrade, improve, and/or increase computer equipment available for public access computing in their communities. These "Staying Connected" grants are now being disbursed to individual Oregon libraries using a formula based on the library's service area population, upon application to the State Library (due October 14, 2005). This is a matching grant, requiring a 1:1 match with local funds. Grant funds will be disbursed to libraries in the form of a reimbursement of half the cost of each computer purchased up to \$600 each. According to the formula, Multnomah County Library is eligible to receive matching funds for 42

computers, for a total of \$25,200. The Library has already budgeted for the replacement of 120 public PCs during this fiscal year, so this will help fund that purchase.

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

This is a one-time reimbursement of \$25,200 for the purchase of public PCs.

**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.**

None

# ATTACHMENT A

## Grant Application/Notice of Intent

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

- **Who is the granting agency?**  
The granting agency is the Bill & Melinda Gates Foundation through the Oregon State Library.
- **Specify grant (matching, reporting and other) requirements and goals.**  
The "Staying Connected" grant is a matching grant, requiring a 1:1 match with local funds. The matching grant assumes a cost per computer of \$1,200 including hardware, software and shipping. For each computer granted, the library must provide half the cost, up to \$600. Under the funding formula, Multnomah County Library is eligible to receive funding for 42 computers (\$25,200). The goal is to provide public libraries the opportunity to upgrade, improve and/or increase computer equipment available for public access computing.
- **Explain grant funding detail – is this a one time only or long term commitment?**  
This is one time only money.
- **What are the estimated filing timelines?**  
The grant application is due October 14<sup>th</sup>. The computers must be purchased between January 1, 2006 and June 30, 2006 and receipts submitted to the Oregon State Library by June 30, 2006 for reimbursement.
- **If a grant, what period does the grant cover?**
- **When the grant expires, what are funding plans?**
- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**

**ATTACHMENT B**

**BUDGET MODIFICATION:**

**Required Signatures**

**Department/  
Agency Director:**

*Molly Raphael*

**Date:** 9/22/05

**Budget Analyst:**

*Kayne Dargatzis*

**Date:** 09/23/05

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**



**MULTNOMAH COUNTY  
AGENDA PLACEMENT REQUEST**

**Board Clerk Use Only**

Meeting Date: 10/06/05  
 Agenda Item #: R-8  
 Est. Start Time: 10:40 AM  
 Date Submitted: 09/07/05

**BUDGET MODIFICATION:** -

**Agenda Title: RESOLUTION Approving Salary Adjustment for Multnomah County District Attorney**

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

<b>Date Requested:</b>	<u>October 6, 2005</u>	<b>Time Requested:</b>	<u>5 minutes</u>
<b>Department:</b>	<u>Department of County Management</u>	<b>Division:</b>	<u>CFO</u>
<b>Contact(s):</b>	<u>Dave Boyer</u>		
<b>Phone:</b>	<u>(503) 988-3903</u>	<b>Ext.:</b>	<u>83903</u>
		<b>I/O Address:</b>	<u>503 / 531</u>
<b>Presenter(s):</b>	<u>Dave Boyer</u>		

**General Information**

**1. What action are you requesting from the Board?**

The Department of County Management recommends approval of this Resolution authorizing salary adjustment for District Attorney

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

The State of Oregon pays Multnomah County \$90,672 towards the District Attorney's annual salary and Multnomah County contributes an additional supplement of \$14,383 towards the District Attorney's annual salary for a total annual salary of \$105,055.

The Multnomah County District Attorney salary has not been adjusted for cost living increases in over ten years, by either the State of Oregon or Multnomah County. The Multnomah County District Attorney's salary is the lowest combined salary of the five most populated counties in Oregon.

The Department of County Management Human Resources recommends increasing the supplement salary of the District Attorney from \$14,383 to \$35,000, effective July 1, 2005 and that future cost of living adjustments will be applied to the District Attorney's salary based on the combined State and County contributions.

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

The County's portion of this increase is \$20,617 and will be covered within existing resources in the District Attorney's budget.

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

The Auditor's Office will include the District Attorney's salary in future Salary Commission studies and the Salary Commission will recommend salary adjustments.

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

The Multnomah County District Attorney's salary is the lowest combined salary of the five most populated counties in Oregon based on a salary survey of other Oregon Counties conducted by the Multnomah County Human Resource Division.

---

**Required Signatures**

---

**Department/  
Agency Director:**

*David G. Boyer*

**Date:** 09/07/05

**Budget Analyst:**

**Date:**

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. \_\_\_\_\_

Approving Salary Adjustment for Multnomah County District Attorney

**The Multnomah County Board of County Commissioners Finds:**

- a. The State of Oregon pays Multnomah County \$90,672 towards the District Attorney's annual salary.
- b. Multnomah County contributes an additional supplement of \$14,383 towards the District Attorney's annual salary for a total annual salary of \$105,055.
- c. The Multnomah County District Attorney salary has not been adjusted for cost living increases in over ten years, by either the State of Oregon or Multnomah County.
- d. Multnomah County District Attorney's salary is the lowest combined salary of the five most populated counties in Oregon.
- e. A Chief District Attorney is paid an annual salary of \$118,000.
- f. The Board of County Commissioners' salary is reviewed by a Salary Commission appointed by the County Auditor.

**The Multnomah County Board of County Commissioners Resolves:**

1. To increase the supplement salary of the District Attorney from \$14,383 to \$35,000, effective July 1, 2005.
2. Future cost of living adjustments will be applied to the District Attorney's salary based on the combined State and County contributions.
3. The Auditor's Office will include the District Attorney's salary in future Salary Commission studies and the Salary Commission will recommend salary adjustments.

ADOPTED this 6th day of October, 2005.

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

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 05-169**

Approving Salary Adjustment for Multnomah County District Attorney

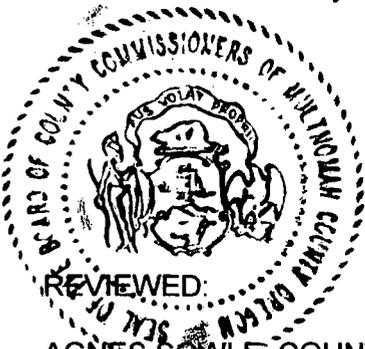
**The Multnomah County Board of County Commissioners Finds:**

- a. The State of Oregon pays Multnomah County \$90,672 towards the District Attorney's annual salary.
- b. Multnomah County contributes an additional supplement of \$14,383 towards the District Attorney's annual salary for a total annual salary of \$105,055.
- c. The Multnomah County District Attorney salary has not been adjusted for cost living increases in over ten years, by either the State of Oregon or Multnomah County.
- d. Multnomah County District Attorney's salary is the lowest combined salary of the five most populated counties in Oregon.
- e. A Chief District Attorney is paid an annual salary of \$118,000.
- f. The Board of County Commissioners' salary is reviewed by a Salary Commission appointed by the County Auditor.

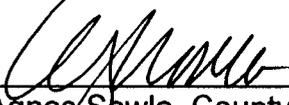
**The Multnomah County Board of County Commissioners Resolves:**

1. To increase the supplement salary of the District Attorney from \$14,383 to \$35,000, effective July 1, 2005.
2. Future cost of living adjustments will be applied to the District Attorney's salary based on the combined State and County contributions.
3. The Auditor's Office will include the District Attorney's salary in future Salary Commission studies and the Salary Commission will recommend salary adjustments.

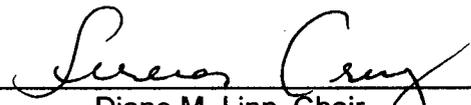
ADOPTED this 6th day of October, 2005.



AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Agnes Sowle, County Attorney

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Diane M. Linn, Chair



**MULTNOMAH COUNTY  
AGENDA PLACEMENT REQUEST**

**Board Clerk Use Only**

**Meeting Date:** 10/06/05  
**Agenda Item #:** R-9  
**Est. Start Time:** 10:45 AM  
**Date Submitted:** 09/12/05

**BUDGET MODIFICATION:** -

**Agenda Title:** First Reading of a Proposed ORDINANCE Amending Multnomah County Code Chapter 12.100 Doing Business Definition, Retroactive to August 19, 2004

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

<b>Date Requested:</b>	<u>October 6, 2005</u>	<b>Time Requested:</b>	<u>5 minutes</u>
<b>Department:</b>	<u>Department of County Management</u>	<b>Division:</b>	<u>CFO</u>
<b>Contact(s):</b>	<u>Dave Boyer</u>		
<b>Phone:</b>	<u>(503) 988-3903</u>	<b>Ext.</b>	<u>83903</u>
		<b>I/O Address:</b>	<u>503 / 531</u>
<b>Presenter(s):</b>	<u>Dave Boyer</u>		

**General Information**

**1. What action are you requesting from the Board?**

The Department of County Management recommends approval of the Ordinance to amend MCC 12.100, Doing Business Definition.

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

In August 2004, the County Business Income Tax was amended by Ordinance No. 1046. When drafting Ordinance No. 1046, the word "not" was omitted in error from the Definition of Doing Business. This Ordinance corrects that error.

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

None.

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

The omission of this word changes the definition of doing business in Multnomah County.

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

Per the Multnomah County Home Rule Charter and adopted Board Rules, citizens have an opportunity to testify on the proposed ordinance at the first or second reading of this non-emergency ordinance, October 6 or October 13, 2005.

---

**Required Signatures**

---

**Department/  
Agency Director:**

*David G. Boyer*

**Date:** 09/12/05

**Budget Analyst:**

**Date:**

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. \_\_\_\_\_

Ordinance Amending Multnomah County Code Chapter 12.100 Doing Business Definition,  
Retroactive to August 19, 2004.

(Language stricken is deleted; double-underlined language is new.)

**The Multnomah County Board of Commissioners Finds:**

- a. In August 2004, the County Business Income Tax was amended by Ordinance No. 1046.
- b. When drafting Ordinance No. 1046, the word "not" was omitted in error from the Definition of Doing Business.

**Multnomah County Ordains as follows:**

**Section 1.**

**§ 12.100 Definitions.**

***DOING BUSINESS.*** To engage in any activity in pursuit of profit or gain, including but not limited to, any transaction involving the holding, sale, rental or lease of property, the manufacture or sale of goods or the sale or rendering of services other than as an employee. Doing business includes activities carried on by a person through officers, agents or employees as well as activities carried on by a person on his or her own behalf.

**Section 2.** This ordinance is retroactive to August 19, 2004.

FIRST READING: \_\_\_\_\_ October 6, 2005

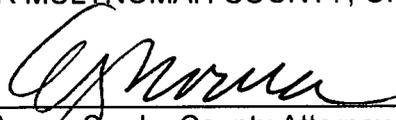
SECOND READING AND ADOPTION: \_\_\_\_\_ October 13, 2005

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



# MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

APPROVED : MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # R-10 DATE 10-6-05  
DEBORAH L. BOGSTAD, BOARD CLERK

### Board Clerk Use Only

Meeting Date: 10/06/05  
Agenda Item #: R-10  
Est. Start Time: 10:47 AM  
Date Submitted: 09/09/05

**BUDGET MODIFICATION: DCM - 03**

**Budget Modification DCM-03 Authorizing Various Personnel Actions in  
Agenda Accounting, Budget Office, Human Resources, Chief Financial Officer's Office,  
Title: Central Procurement and Contract Administration and Facilities**

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

Date Requested: October 6, 2005 Time Requested: 5 minutes  
Department: Department of County Management Division: Office of the CFO  
Contact(s): Bob Thomas, Dave Boyer  
Phone: (503) 988-4283 Ext. 84283 I/O Address: 503 / 531  
Presenter(s): Bob Thomas, Dave Boyer

### General Information

**1. What action are you requesting from the Board?**

The department is requesting the Board approve this Budget Modification.

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

As described at the September 29, 2005 Board Briefing, a number of personnel actions are necessary in order to bring the Department of County Management's budget in line with the service delivery needs.

Reclassifications:

Three reclassifications have been approved by the County's Central Class Comp Unit and the department requests the Board to formally approve these changes.

- Reclassify 1.0 FTE Office Assistant 2 to 1.0 FTE Office Assistant Sr (CFO's Office) – approved by Class Comp in August
- Reclassify 1.0 FTE Chief Financial Officer to 1.0 FTE Department Director 2 (CFO's Office) –

approved by Class Comp in June – no FY 2006 financial impact

- Reclassify 1.0 FTE Human Resources Analyst Sr to 1.0 FTE Program Development Specialist Sr (Risk Liability Program) – approved by Class Comp in August

Convert Existing Positions:

Since departments did not submit staffing amendments during the budget process, these two position changes were not included in the FY 2006 budget. In order to perform its required work plan, Facilities & Property Management needs to convert two obsolete positions into these two new positions.

- Convert 1.0 FTE Facilities Maintenance Worker to 1.0 FTE Carpenter Locksmith
- Convert 1.0 FTE Alarm Technician to 1.0 FTE Facilities Specialist 2

New Positions:

These personnel actions were described by the department during its September 29<sup>th</sup> Board Briefing.

- 3.0 FTE Buyer 2 positions – Central Purchasing and Contract Administration (CPCA) resources increased to provide service to departments
- 1.0 FTE Administrative Analyst – provides fiscal and budgetary control and support to Human Resources, Finance, Benefits Administration, CPCA, and Sustainability
- 1.0 FTE Finance Manager – limited duration CPCA position (15 months) – emphasis on revision of PCRB administrative changes, legal requirements, training
- 0.2 FTE Finance Specialist 1 (Accounts Payable) - Central AP has experienced an increase in payment processing by shifting some weekly payment processing to daily payment processing in order to respond to customer needs and minimize client risk. Staff increase will also strengthen internal controls around petty cash accounts and procurement card monitoring.
- 1.0 FTE Finance Specialist 2 (Budget Office) – provides technical support for Budget Office: validating position control in departments, assist in quarterly reporting and web tool maintenance, validate budget modification changes in SAP.
- 1.0 FTE Office Assistant 2 (HR 4<sup>th</sup> floor front counter reception) – convert temporary position into full time position
- 1.0 FTE Human Resources Mgr 1  
Training / Organizational Development Manager for Multnomah County. The position will be responsible for coordinating and managing a Countywide training effort specifically targeting issues brought forward this last year relating to the issues stated in Dr. DeBardelaben 's report and compliance/liability training (to include Sexual Harassment, Work Place Violence, ADA, FMLA, investigations, etc -- essentially all the elements of the compliance tracking piece as they pertain to training).
- 0.5 FTE Human Resources Analyst 2 (Class Comp) – Class Comp unit now staffed at 1.5 FTE, far below Hayhurst Study recommended level of 4.0 FTE and below industry standards.
- 0.5 FTE Human Resources Mgr Sr (Labor Relations) – Position was cut in FY 2006 budget. Provides senior level HR/LR counseling for the Library and DCJ. Responsible for contract interpretation, negotiation, bargaining, grievance and discipline handling.
- 0.5 FTE Human Resources Mgr 1 - Provides half time support as DSCP HR Manager and half time working on Library Pension Fund.

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

No additional FY 2006 resources are required within each fund for the personnel actions described in this action. Net personal service increases in the General Fund are \$203,270 with a reduction in

materials and services to match. Net personal service increases in the Business Services Fund is \$406,553 with a reduction in temporary staff, materials and services to match. Net personal service increases in the Facilities Management Fund are \$30,675, with a corresponding reduction in materials and services. Net personal service increases in the Risk Management Fund are \$2,586 with a reduction in materials and services. FY 2007 fiscal impact for each fund will increase due to COLAs and rise in benefits- specific costs cannot be estimated.

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

Employees have the right to request evaluation of the appropriateness of their classifications. The Classification/Compensation Unit has a formal process for evaluating these requests. The reclassifications for which approval is sought in this request, have been reviewed by the Classification/Compensation Unit and the positions have been found to be wrongly classed. By contract and under our personnel rules, we are required to compensate employees appropriately based on these findings.

Local 88 represented employees have a contractual right to appeal and arbitrate the outcome of a reclassification request, which would include Board action to disapprove the request. It is the policy of Multnomah County to make all employment decisions without regard to race, religion, color, national origin, sex, age marital status, disability, political affiliations, sexual orientation, or any other nonmerit factor.

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

NA

# ATTACHMENT A

## Budget Modification

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

- **What revenue is being changed and why?**

Risk Management Fund revenue increases by \$99,917 due to increased Insurance Benefits related to the position changes described.

- **What budgets are increased/decreased?**

The Risk Management Fund budget is increased by \$99,917.

- **What do the changes accomplish?**

The personnel changes accomplish reclassifications approved by Class Comp, technical corrections to the FY 2006 Facilities budget, and service improvements as described in the September 29<sup>th</sup> DCM Board Briefing.

- **Do any personnel actions result from this budget modification? Explain.**

Yes, as described earlier in the APR.

- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**

No changes.

- **Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?**

If approved as part of the FY 2007 budget, each increase will either require additional General Fund appropriation, or will be included within the rate structure of the internal service providers described.

- **If a grant, what period does the grant cover?**

- **If a grant, when the grant expires, what are funding plans?**

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

**ATTACHMENT B**

**BUDGET MODIFICATION: DCM - 03**

**Required Signatures**

**Department/  
Agency Director:**

*David G Boyer*

**Date: 09/09/05**

**Budget Analyst:**

*Christy*

**Date: 09/09/05**

**Department HR:**

*Pat Holloman*

**Date: 09/09/05**

**Countywide HR:**

*David B. Brewer*

**Date: 09/09/05**

### EXPENDITURES & REVENUES

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

Budget/Fiscal Year: 2006

Line No.	Fund Center	Fund Code	Func. Area	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
				Internal Order	Cost Center	WBS Element						
1	72-01	1000	0020		704000		60000	301,574	347,609	46,035		Increase base
2	72-01	1000	0020		704000		60130	92,191	106,263	14,072		increase salary related
3	72-01	1000	0020		704000		60140	59,319	69,373	10,054	70,161	increase ins ben
4	72-01	1000	0020		704000		60170	55,000	14,730	(40,270)		Decrease Professional Svcs
5	72-10	1000	0020		704300		60170	97,500	47,500	(50,000)		Decrease Professional Svcs
6	72-45	1000	0020		704400		60170	119,500	71,500	(48,000)		Decrease Professional Svcs
7	72-10	3500	0020		708200		60000	34,079	35,124	1,045		Increase base
8	72-10	3500	0020		708200		60130	10,418	10,738	320		increase salary related
9	72-10	3500	0020		708200		60140	7,069	6,997	(72)		decrease ins ben
10	72-10	3500	0020		708300		60000	34,079	35,124	1,045		Increase base
11	72-10	3500	0020		708300		60130	10,418	10,738	320		increase salary related
12	72-10	3500	0020		708300		60140	7,070	6,998	(72)	2,586	decrease ins ben
13	72-10	3500	0020		708200		60280	838,000	836,707	(1,293)		decrease insurance
14	72-10	3500	0020		708300		60280	357,650	356,357	(1,293)		decrease insurance
15	72-50	3505	0020		902202		60000	873,273	842,831	(30,442)		decrease base
16	72-50	3505	0020		902202		60130	266,960	257,654	(9,306)		decrease salary related
17	72-50	3505	0020		902202		60140	233,190	222,081	(11,109)		decrease ins ben
18	72-50	3505	0020		902450		60000	258,459	311,118	52,659		Increase base
19	72-50	3505	0020		902450		60130	79,011	95,109	16,098		increase salary related
20	72-50	3505	0020		902450		60140	54,688	67,463	12,775	30,675	increase ins ben
21	72-50	3505	0020		902575		60170	613,900	583,225	(30,675)		Decrease Professional Svcs
22	72-10	3506	0020		711100		60000	0	11,157	11,157		Increase base
23	72-10	3506	0020		711100		60130	0	3,411	3,411		increase salary related
24	72-10	3506	0020		711100		60140	0	2,490	2,490	17,058	increase ins ben
25	72-10	3506	0020		711100		60170	352,187	0	(352,187)		Decrease Professional Svcs
26	72-70	1000	0020		704700		60000	-	59,976	59,976		Increase base
27	72-70	1000	0020		704700		60130	0	18,335	18,335		increase salary related
28	72-70	1000	0020		704700		60140	0	10,077	10,077	88,388	increase ins ben
29	72-70	3506	0020		711200		60000	830,854	937,331	106,477		Increase base
30	72-70	3506	0020		711200		60130	253,992	286,542	32,550		increase salary related
31	72-70	3506	0020		711200		60140	204,048	229,063	25,015	164,042	increase ins ben
32	72-70	3506	0020		711200		60170	156,167	124,596	(31,571)		Decrease Professional Svcs
33	72-10	3506	0020		711201		60000	276,721	282,378	5,657		Increase base
34	72-10	3506	0020		711201		60130	84,594	86,323	1,729		increase salary related
35	72-10	3506	0020		711201		60140	69,178	70,870	1,692	9,078	increase ins ben
36	72-10	3506	0020		711201		60145	12,795	0	(12,795)		decrease ins ben
37	72-20	1000	0020		701000		60000	723,510	751,843	28,333		Increase base
38	72-20	1000	0020		701000		60130	229,994	238,656	8,662		increase salary related
39	72-20	1000	0020		701000		60140	126,462	134,188	7,726	44,721	increase ins ben
40	72-20	1000	0020		701000		60170	70,000	5,000	(65,000)		Decrease Professional Svcs
41	72-80	3506	0020		712001		60000	192,270	334,832	142,562		Increase base
42	72-80	3506	0020		712001		60130	58,777	102,358	43,581		increase salary related
43	72-80	3506	0020		712001		60140	39,417	69,649	30,232	216,375	increase ins ben
44	72-80	3506	0020		712001		60100	10,000	0	(10,000)		decrease temporary
45	72-10	3500	0020		705210		50316		(99,917)	(99,917)		Increase serv reimb revenue
46	72-10	3500	0020		705210		60280		99,917	99,917		Increase Insurance
										0	643,084	Total - Page 1
										1,286,168	643,084	GRAND TOTAL

**ANNUALIZED PERSONNEL CHANGE**

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

						ANNUALIZED			
Fund	Job #	HR Org Unit	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
1000	6001	61267	Office Assistant 2	712449	(1.00)	(32,511)	(9,939)	(10,939)	(53,389)
1000	6002	61267	Office Assistant Sr	712449	1.00	34,619	10,583	11,076	56,278
1000	9810	61267	Chief Financial Officer	706632	(1.00)	(126,936)	(38,804)	(17,077)	(182,817)
1000	9613	61267	Department Director 2	706632	1.00	126,936	38,804	17,077	182,817
3500	9748	63000	Human Resources Analyst Sr	701856	(1.00)	(58,539)	(17,895)	(12,631)	(89,065)
3500	6088	63000	Program Devpt Specialist Sr	701856	1.00	60,819	18,592	12,475	91,886
3505	6094	64178	Fac Mnt Wkr	705078	(1.00)	(35,016)	(10,704)	(11,452)	(57,172)
3505	6149	64178	Crptr Locksm	705680	(1.00)	(44,641)	(13,647)	(12,174)	(70,462)
3505	6155	64178	Alrm Tech	701137	1.00	49,214	15,045	12,517	76,776
3505	6017	61987	Fac Spec 2	704378	1.00	52,659	16,098	12,775	81,533
3506	6111	64234	Buyer 2	New	3.00	138,468	42,330	35,478	216,276
1000	9006	61267	Administrative Analyst	702019	1.00	55,786	17,054	12,452	85,292
1000	9336	61267	Finance Manager	712341	1.00	85,680	26,193	14,395	126,268
3506	6029	64235	Finance Specialist 1	704221	0.20	7,542	2,306	2,255	12,103
1000	6030	61260	Finance Specialist 2	New	1.00	42,500	12,992	11,588	67,080
3506	6001	64215	Office Assistant 2	New	1.00	32,511	9,939	10,939	53,389
3506	9715	64352	Human Resource Manager 1	New	1.00	73,059	22,334	13,575	108,968
3506	9670	64217	Human Resources Analyst 2	708914	0.50	22,402	6,848	5,869	35,119
3506	9699	64219	Human Resource Manager Sr	700801	0.50	44,959	13,744	7,335	66,038
3506	9715	64219	Human Resource Manager 1	703836	0.50	36,984	11,306	6,817	55,107
<b>TOTAL ANNUALIZED CHANGES</b>					<b>9.70</b>	<b>566,496</b>	<b>173,179</b>	<b>122,350</b>	<b>862,025</b>

**CURRENT YEAR PERSONNEL DOLLAR CHANGE**

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

						CURRENT YEAR			
Fund	Job #	HR Org Unit	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
1000	6001	61267	Office Assistant 2	712449	(1.00)	(32,511)	(9,939)	(10,939)	(53,389)
1000	6002	61267	Office Assistant Sr	712449	0.98	33,917	10,368	11,031	55,316
1000	9810	61267	Chief Financial Officer	706632	(1.00)	(126,936)	(38,804)	(17,077)	(182,817)
1000	9613	61267	Department Director 2	706632	1.00	126,936	38,804	17,077	182,817
3500	9748	63000	Human Resources Analyst Sr	701856	(1.00)	(58,539)	(17,895)	(12,631)	(89,065)
3500	6088	63000	Program Devpt Specialist Sr	701856	1.00	60,629	18,534	12,488	91,651
3505	6094	64178	Fac Mnt Wkr	705078	(1.00)	(35,016)	(10,704)	(11,452)	(57,172)
3505	6149	64178	Crptr Locksm	705680	(1.00)	(44,641)	(13,647)	(12,174)	(70,462)
3505	6155	64178	Alrm Tech	701137	1.00	49,214	15,045	12,517	76,776
3505	6017	61987	Fac Spec 2	704378	1.00	52,659	16,098	12,775	81,533
3506	6111	64234	Buyer 2	New	1.75	80,773	24,692	20,696	126,161
1000	9006	61267	Administrative Analyst	702019	1.00	55,786	17,054	12,452	85,292
1000	9336	61267	Finance Manager	712341	1.00	85,680	26,193	14,395	126,268
3506	6029	64235	Finance Specialist 1	704221	0.75	5,657	1,729	1,692	9,078
1000	6030	61260	Finance Specialist 2	New	0.67	28,333	8,662	7,726	44,721
3506	6001	64215	Office Assistant 2	New	0.67	21,685	6,629	7,296	35,610
3506	9715	64352	Human Resource Manager 1	New	0.58	42,618	13,028	7,919	63,565
3506	9670	64217	Human Resources Analyst 2	708914	0.38	16,802	5,136	4,402	26,340
3506	9699	64219	Human Resource Manager Sr	700801	0.38	33,719	10,308	5,502	49,529
3506	9715	64219	Human Resource Manager 1	703836	0.38	27,738	8,480	5,113	41,331
<b>TOTAL CURRENT FY CHANGES</b>					<b>7.52</b>	<b>424,504</b>	<b>129,771</b>	<b>88,808</b>	<b>643,083</b>



# MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

### Board Clerk Use Only

<b>Meeting Date:</b>	<u>10/06/05</u>
<b>Agenda Item #:</b>	<u>R-11</u>
<b>Est. Start Time:</b>	<u>10:50 AM</u>
<b>Date Submitted:</b>	<u>09/28/05</u>

### BUDGET MODIFICATION:

<b>Agenda Title:</b>	<b>RESOLUTION Approving the Sale of the Medical Examiners Building Located at 301 NE Knott, Portland to Knott Street Medical, LLC and Authorizing County Chair to Execute Appropriate Documents to Complete the Sale</b>
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*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

<b>Date</b>	October 6, 2005	<b>Time</b>	10 Minutes
<b>Requested:</b>	_____	<b>Requested:</b>	_____
<b>Department:</b>	<u>Chair Linn</u>	<b>Division:</b>	<u>Chair's Office</u>
<b>Contact(s):</b>	<u>Doug Butler, Mike Sublett</u>		
<b>Phone:</b>	<u>(503) 988-6294</u>	<b>Ext.</b>	<u>86294</u>
		<b>I/O Address:</b>	<u>274/FPM</u>
			<u>84149</u>
<b>Presenter(s):</b>	<u>Doug Butler, Mike Sublett</u>		

### General Information

**1. What action are you requesting from the Board?**

The Department of County Management requests the Board approve the Sale of the Medical Examiners Building, located at 301 NE Knott, Portland, Oregon, to Knott Street Medical, LLC and Authorize the County Chair to Execute Appropriate Documents to Complete the Sale.

The Department of County Management, Facilities and Property Management Division, recommends adoption of the Resolution.

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

The Medical Examiners Building, located at 301 NE Knott, Portland, Oregon, ("Property"), was declared surplus by Resolution 04-169, dated November 18, 2004. The Facilities and Property Management Division commenced sale of the property through a Request For Proposals (RFP) process. An RFP, dated April 18, 2005, was issued with a response deadline of May 31, 2005. Two

responses were received, addressing the selection criteria with purchase prices of \$250,000 from CHAOS Theatre and \$500,000 from NAYA. Due to the low response rate, among other factors, Facilities and Property Management Division ("Facilities") determined that the Property had been insufficiently exposed to the market. The RFP was re-issued July 11, 2005, with a response deadline of September 9, 2005.

The RFP included the following "Selection Criteria": Proposers were to offer a price in cash or to propose terms. The RFP provided that cash offers were preferred. Proposers were required to provide evidence of neighborhood support for the purchase by the proposer. The RFP required each proposer to identify the proposed use of the property and to state how the use would contribute to the community.

Five proposals were received by the September 9, 2005 deadline. Each of the proposers were allowed the opportunity to supplement their proposal by September 22, 2005. Facilities has reviewed all the proposals. All proposers substantially addressed the Selection Criteria:

- a. Cascade Commercial Real Estate proposes Knott Street Commons, a 40-unit residential development with live/work units on a cleared site. The purchase price is \$850,000.
- b. Chaos Theatre proposes converting the existing building into the Northeast Portland Arts Center, with residential development on 40% of the site. The purchase price is \$600,000, \$591,500 net of commission.
- c. Knott Street Medical, LLC proposes converting the existing building into a multi-physician medical clinic. The purchase price is \$1,200,000, \$1,128,000 net of commission.
- d. Kaiser Group, Inc. proposes converting the existing building into a multi-use facility serving a 33-unit, surrounding town home development. The purchase price is \$800,000.
- e. The Native America Youth and Family Center (NAYA) proposes converting the existing building into a service center and administration, with a later structure providing additional social service space and parking. The purchase price is \$500,000.

Facilities has reviewed the proposals, including purchase price, use, neighborhood support, and community contribution. Facilities recommend the sale of the Property to Knott Street Medical, LLC for \$1,200,000.

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

The County will net in excess of \$1,100,000 from the sale, after 6% brokerage commission and sale expenses. Minor, ongoing "mothball maintenance" costs will be eliminated. All net proceeds derived from the sale shall be deposited in the County Capital Improvement Fund #2507 to be used for deferred maintenance on County-owned properties.

**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.**

Under Resolution 04-185, the surplus property policy adopted December 9, 2004, a public input process was established. This was completed earlier this year.

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**Required Signatures**

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**Department/  
Agency Director:**

*Chris M. J.*

**Date:** 09/28/05

**Budget Analyst:**

**Date:**

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**

**BOGSTAD Deborah L**

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**From:** SUBLETT Michael A  
**Sent:** Tuesday, October 04, 2005 5:56 AM  
**To:** NAITO Terri W; NAITO Terri W; WEST Kristen; BAESSLER Joseph E; BOGSTAD Deborah L; CARROLL Mary P; FUSSELL Rob; GORDON Kathy; LASHUA Matthew; MARTIN Chuck T; ROMERO Shelli D; SMITH Andy J  
**Cc:** BOYER Dave A; THOMAS Bob C; SHORTALL Mary E; BUTLER Douglas E; NEWSTROM Matt; TREB Kathleen A; HUDSON Ray; GRAVES Travis R; UMBRAS Colette R  
**Subject:** Morgue Article - The Oregonian - Metro Section Page 2

"Empty Morgue Might Soon Serve Live Patients"

There's a balanced article on the Commission's consideration of the sale of the Medical Examiners Building this Thursday. It does over-stress the price; staff vetted his community and neighborhood support as well. (The article states the neighborhood land use chair would look favorably on the proposal.) Dr. Hanson, the principal behind Knott Street Medical LLC along with his wife Jennifer, had requested confidentiality due to partnership issues with his existing practice in Vancouver. Though there were some difficult moments last week, it appears that a smooth transition is now in place. They are motivated buyers, now that he has reportedly given notice at his current job. They are having their designer inspect the building tomorrow, in anticipation of Board approval Thursday.

Thanks, Mike

10/4/2005

# Empty morgue might soon serve live patients

**County building** | A Northeast Portland doctor has the highest bid, of \$1.2 million

By **STEPHEN BEAVEN**  
THE OREGONIAN

A proposal to purchase a vacant morgue in Northeast Portland for \$1.2 million and turn it into doctors' offices will be considered Thursday by the Multnomah County Board of Commissioners.

That proposal, by Dr. Eric Hanson, a dermatologist whose practice is based in Vancouver, is one of five offers to buy the former state medical examiner's office at 301 N.E. Knott St.

Other proposals, made public

last week, include an arts center, a social services facility and residential developments.

But Knott Street Medical has offered \$350,000 more than any other bidder and has won the recommendation of Multnomah County staff. A resolution authorizing the sale of the morgue to Hanson is scheduled on the commission's Thursday agenda.

The 12,632-square-foot building has been vacant since last fall, when the state medical examiner moved its Multnomah County office to Clackamas County. The property was appraised at \$1 million.

Hanson, who lives in the Eliot neighborhood just blocks from the facility, proposes a clinic that would include ear, nose and throat

and family practices, in addition to dermatology. Hanson also promises to maintain the architectural integrity of the brick building.

Mike Warwick, land-use chairman for Eliot Neighborhood Association, said the group would like to see more market-rate housing in the area. He especially prefers a proposal that would turn the morgue into a gallery and workspace for artists while building townhouses around it.

But he'd also like to see the 79-year-old building preserved and would look favorably on a medical clinic.

"If (it's) preserving the building and the grounds, we'd be more in favor of that than proposals that wouldn't do that," Warwick said.

Other proposals include an



ROB FINCH/THE OREGONIAN

The former state medical examiner's office at 301 N.E. Knott St., pictured here from the back, is expected to be sold to a dermatologist who wants to turn it into medical offices.

\$850,000 bid by Cascade Commercial Real Estate for a 40-unit residential development. That project would include the demolition of the building.

Kaiser Group Inc., headed by North Portland developer Benja-

min Kaiser, offered \$800,000 to build 33 residential units as well as small studios for artists and massage therapists.

Chaos Theatre offered \$600,000 for an arts center and a residential development.

The Native American Youth and Family Center bid \$500,000 to convert the building into a social service center.

Stephen Beaven: 503-294-7863;  
stevebeaven@news.oregonian.com

September 25, 2005

The Eliot Neighborhood Association Land Use Committee met with two groups considering purchasing the Multnomah County Morgue Building at our last meeting September 21, 2005, the groups included The Kaiser Group owned by local developer Ben Kaiser and Bernie Gehret representing Eric and Jennifer Hanson practicing wellness physician. Multnomah County has asked those submitting proposals to present their RFP ( Request for Proposal) to Eliot Neighborhood Association.

The Eliot Neighborhood Land Use Committee Members and neighbors listened and discussed each proposal. The Land use Committee members voted to support the proposal of Eric and Jennifer Hanson. The proposal renovating the Morgue into a physicians, physical therapists and a variety of wellness professionals thought that would be a better use for that property.

In regards to the Kaiser group after hearing their proposal and discussing it with board members and neighbors the Eliot Neighborhood Land Use Committee voted not to support there proposal. The proposal by the Kaiser group to build 32 residential units without parking was a concern to board members and neighbors, board members felt that with a increase of residential unites on this site parking would have to be a critical component for this project to continue. Board members were also concerned about the modern contemporary design of the units surrounding the 1960's structure of the Morgue, the board thought that is does not fit the architectural flavor of the neighborhood. The board did like the concept of artist live/work spaces but feel this proposal would be a better fit within the Eliot Neighborhood business nodes.

Sincerely

Gary Hampton  
Chair of Eliot Neighborhood Association.

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: Oct. 6, 2005

SUBJECT: Sale of Medical Examiners office

AGENDA NUMBER OR TOPIC: R11 Sale of Medical Examiners Office

FOR: \_\_\_\_\_ AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Thomas Weise, Associate Director, Chaos Theatre

ADDRESS: 3135 SE 25th Avenue

CITY/STATE/ZIP: Portland, OR 97202

PHONE: DAYS: 503-720-1215 EVES: \_\_\_\_\_

EMAIL: rweise@cnwi.net FAX: \_\_\_\_\_

SPECIFIC ISSUE: The zoning is not consistent with the proposed use.

WRITTEN TESTIMONY: From Thomas Weise, Associate Director of Chaos Theatre. Our organization responded to Multnomah County's RFP for the purchase of the former Medical Examiner's office. We want to praise the County on this process which seemed efficient and fair. And we want to congratulate the County for selecting the Knott Street Medical proposal, which offers an excellent purchase price to the County and a beneficial use to the neighborhood. We would like to point out on record that the use Knott Street Medical proposes is not consistent with the current zoning of the property, which is R11. It is not consistent with the current Conditional Use of Community Service. Furthermore, it is our understanding

**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.

(cont.)

that a conditional use of "Office" can only be granted in new-multi dwelling developments in the RH zone.

Conversion of existing structures is prohibited, according to Title 33, "Planning and Zoning" Chapter 120.

We just want to be sure the Commissioners have considered the full impact of selling the property for a use that is inconsistent with the current zoning.

Thank you for your time.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 05-170**

Approving the Sale of the Medical Examiners Building Located at 301 NE Knott, Portland to Knott Street Medical, LLC and Authorizing County Chair to Execute Appropriate Documents to Complete the Sale

**The Multnomah County Board of Commissioners Finds:**

- a. By Resolution 05-045, dated March 31, 2005, the Multnomah County Board of Commissioners authorized the sale of the Medical Examiners Building, ("Property"), located at 301 NE Knott Avenue, Portland, Oregon.
- b. The Facilities and Property Management Division commenced sale of the property through a Request For Proposals (RFP) process. An RFP, dated April 18, 2005, was issued with a response deadline of May 31, 2005. Two responses were received. Facilities and Property Management Division ("Facilities") determined that the Property had been insufficiently exposed to the market. The RFP was re-issued July 11, 2005, with a response deadline of September 9, 2005.
- c. The RFP included the following "Selection Criteria": Proposers were to offer a price in cash or to propose terms. The RFP provided that cash offers were preferred. Proposers were required to provide evidence of neighborhood support for the purchase by the proposer. The RFP required each proposer to identify the proposed use of the property and to state how the use would contribute to the community.
- d. Five proposals were received by the September 9, 2005 deadline. Each of the proposers was allowed the opportunity to supplement their proposal by September 22, 2005. Facilities has reviewed all the proposals. All proposers substantially addressed the Selection Criteria:
  - i. Cascade Commercial Real Estate proposes Knott Street Commons, a 40-unit residential development with live/work units on a cleared site. The purchase price is \$850,000.
  - ii. Chaos Theatre proposes converting the existing building into the Northeast Portland Arts Center, with residential development on 40% of the site. The purchase price is \$600,000, \$591,500 net of commission.
  - iii. Knott Street Medical, LLC proposes converting the existing building into a multi-physician medical clinic. The purchase price is \$1,200,000, \$1,128,000 net of commission.

iv. Kaiser Group, Inc., proposes converting the existing building into a multi-use facility serving a 33-unit, surrounding town home development. The purchase price is \$800,000.

v. The Native America Youth and Family Center proposes converting the existing building into a service center and administration, with a later structure providing additional social service space and parking. The purchase price is \$500,000.

e. Facilities has reviewed the proposals, including purchase price, use, neighborhood support, and community contribution. Facilities recommends the sale of the Property to Knott Street Medical, LLC for \$1,200,000.

**The Multnomah County Board of Commissioners Resolves:**

1. It is in the best interests of the County to sell the Property to Knott Street Medical, LLC for \$1,200,000. The Chair is authorized to approve terms of the sale substantively consistent with the attached Sale Agreement and to execute all appropriate documents necessary to complete the transaction.
2. All net proceeds derived from the sale shall be deposited in the County Capital Improvement Fund #2507 to be used for deferred maintenance on County owned properties.

ADOPTED this 6th day of October, 2005.



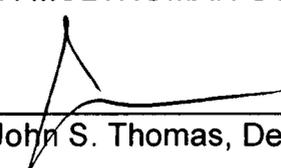
BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
\_\_\_\_\_  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By

  
\_\_\_\_\_  
John S. Thomas, Deputy County Attorney



FINAL AGENCY ACKNOWLEDGMENT

Both Buyer and Seller acknowledge having received the Oregon Real Estate Agency Disclosure Pamphlet, and hereby acknowledge and consent to the following agency relationships in this transaction:

(1) Bernie Gehret (Name of Selling Licensee) of NorthStar Realty Advisors, LLC (Name of Real Estate Firm) is the agent of (check one): [ ] The Buyer exclusively. [ ] The Seller exclusively ("Seller Agency"). [X] Both the Buyer and the Seller ("Disclosed Limited Agency").

(2) Bernie Gehret (Name of Listing Licensee) of NorthStar Realty Advisors, LLC (Name of Real Estate Firm) is the agent of (check one): [ ] The Seller exclusively. [X] Both the Buyer and the Seller ("Disclosed Limited Agency").

(3) If both parties are each represented by one or more Licensees in the same Real Estate Firm, and the Licensees are supervised by the same principal broker in that Real Estate Firm, Buyer and Seller acknowledge that said principal broker shall become the disclosed limited agent for both Buyer and Seller as more fully explained in the Disclosed Limited Agency Agreements that have been reviewed and signed by Buyer, Seller and Licensee(s).

Buyer shall sign this acknowledgment at the time of signing this Agreement before submission to Seller. Seller shall sign this acknowledgment at the time this Agreement is first submitted to Seller, even if this Agreement will be rejected or a counter offer will be made. Seller's signature to this Final Agency Acknowledgment shall not constitute acceptance of the Agreement or any terms therein.

Buyer \_\_\_\_\_ Print Knott Street Medical, LLC Date \_\_\_\_\_
Buyer \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_
Seller \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_
Seller \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_

COMMERCIAL REAL ESTATE SALE AGREEMENT

This Agreement is intended to be a legal and binding contract. If it is not understood, seek competent legal advice before signing.

1. DEFINITIONS: All references in this Agreement to "Licensee" and "Firm" shall refer to Seller's and Buyer's real estate agents licensed in the State of Oregon and the respective real estate companies with which they are affiliated. The Licensee(s) and Firm(s) identified in the Final Agency Acknowledgment Section above are not parties to this Agreement, except as may be applicable in Sections 32, 33, 36 and 39 below. Unless otherwise provided herein: (1) Time calculated in days after the date Seller and Buyer have signed this Agreement shall start on the first full business day after the date that the last party has signed accepting this Agreement, including counteroffer(s), if applicable; (2) Written notices required or permitted under this Agreement to be delivered to Seller or Buyer may be delivered to their respective Licensee with the same effect as if delivered to that Seller or Buyer; (3) A "business day" shall mean and include Monday through Friday, except recognized legal holidays as enumerated in ORS 187.010 and 187.020.

2. PRICE/PROPERTY DESCRIPTION: Buyer (print name(s)) Knott Street Medical, LLC offers to purchase from Seller (print name(s)) Multnomah County the following described property and all improvements thereon (hereinafter "the Property") situated in the State of Oregon, County of Multnomah and commonly known or identified as (insert street address, city, zip code, tax identification number, and/or lot-block description, etc.) 301 NE Knott Street, Portland, OR (Seller and Buyer agree that if it is not provided herein, a complete legal description as provided by the title insurance company in accordance with Section 4, below, shall, where necessary, be used for purposes of legal identification and conveyance of title.) for the purchase price (in U.S. currency) of A \$1200000.00 on the following terms: Earnest money herein receipted for B \$10000.00 on \_\_\_\_\_, as additional earnest money, the sum of C \$ \_\_\_\_\_ at or before closing, the balance of down payment D \$110000.00 at closing and upon delivery of [X] DEED [ ] CONTRACT the sum of (Lines B, C, D and E should equal Line A), E \$1080000.00 Payable as follows (Describe details of any loan(s) to be obtained): Purchaser to obtain financing at terms and rates acceptable to the Purchaser. For additional details, see Addendum \_\_\_\_\_

3. BUYER REPRESENTATIONS/LOAN CONTINGENCY: As of the date of signing this Agreement, Buyer has sufficient funds available to close this transaction in accordance with the terms proposed herein, and is not relying on any contingent source of funds (e.g. from loans, gifts, sale or closing of property, 401K disbursements, etc.), unless otherwise disclosed in this Agreement. IF A NEW LOAN IS REQUIRED, THIS TRANSACTION IS SUBJECT TO BUYER AND PROPERTY QUALIFYING FOR THE LOAN AND THE LENDER'S APPRAISAL BEING NOT LESS THAN THE PURCHASE PRICE. Buyer agrees to make written loan application not later than \_\_\_\_\_ business days (three (3) if not filled in) after the date Seller and Buyer have signed this Agreement, and thereafter complete necessary papers, and exert best efforts, including payment of all application, appraisal and processing fees, in order to procure the loan.

LINES WITH THIS SYMBOL ← REQUIRE A SIGNATURE OF BUYER AND/OR SELLER AND DATE

Buyer Initials \_\_\_\_\_ / \_\_\_\_\_ Date \_\_\_\_\_
Seller Initials \_\_\_\_\_ / \_\_\_\_\_ Date \_\_\_\_\_

59 This contingency is solely for Buyer's benefit and may be waived by Buyer in writing. Buyer authorizes lender to provide non-confidential  
 60 information to Listing and Selling Licensees regarding status of the loan. If Property is located in a designated flood zone, Buyer  
 61 acknowledges that flood insurance may be required as a condition of the new loan. Buyer is encouraged to promptly verify the availability  
 62 and cost of property/casualty insurance that will be secured for the Property.  
 63

64 **4. TITLE INSURANCE:** Unless otherwise provided herein, this transaction is subject to Buyer's review and approval of the exceptions  
 65 disclosed on a preliminary title report ("the report") showing the condition of title to the Property. (If not fully understood, Buyer should  
 66 immediately contact the title insurance company for further information or seek competent legal advice. Neither the Listing nor  
 67 Selling Licensees are qualified to advise on specific legal or title issues.) Upon execution of this Agreement by Seller and Buyer,  
 68 Seller will, at Seller's sole expense, promptly order the report from an Oregon title insurance company and furnish it to Buyer together with  
 69 complete and legible copies of all exceptions noted in the report. Upon receipt of the report, Buyer shall have \_\_\_ business days (five (5) if  
 70 not filled in) thereafter within which to notify Seller, in writing, of any matter(s) disclosed in the report which is/are unacceptable to Buyer  
 71 ("the objections"). Buyer's failure to timely object, in writing, to any exceptions disclosed in the report shall constitute acceptance of those  
 72 exceptions. Provided, however, Buyer's failure to timely object shall not relieve Seller of the duty to convey marketable title pursuant to  
 73 Section 6 below. If, within \_\_\_ business days (five (5) if not filled in) following receipt of the Buyer's objection(s), if any, Seller fails to  
 74 remove or correct them, or does not give written assurances reasonably satisfactory to Buyer that they will be removed or corrected prior  
 75 to the closing date, all earnest money shall be promptly refunded to Buyer and this transaction shall be terminated. This contingency is  
 76 solely for Buyer's benefit and may be waived by Buyer in writing. Within thirty (30) days after closing, Seller shall furnish to Buyer an  
 77 owner's standard form policy of title insurance insuring marketable title in the Property to Buyer in the amount of the purchase price, free  
 78 and clear of the objections and all other title exceptions agreed to be removed as part of this transaction. So long as doing so shall be at  
 79 no additional expense or liability to Seller, Seller shall cooperate in all reasonable respects with the delivery to Buyer of an ALTA extended  
 80 form policy of title insurance and any endorsements requested by Buyer.  
 81

82 **5. ADDITIONAL PROVISIONS TO PURCHASE:** \_\_\_\_\_

83 For additional provisions, see Addendum \_\_\_\_\_.  
 84

85 **6. DEED:** Seller shall convey marketable title to the Property by  statutory warranty deed or  \_\_\_\_\_, free and  
 86 clear of all liens of record, except property taxes which are a lien but not yet payable, zoning ordinances, building and use restrictions,  
 87 reservations in Federal patents, easements of record which affect the Property, covenants, conditions and restrictions of record, and those  
 88 matters accepted by Buyer or agreed to be removed by Seller pursuant to Section 4 above.  
 89

90 **7. FIXTURES:** Trade fixtures  are,  are not to be left upon the Property as part of the Property being purchased. All other fixtures are  
 91 to be left upon the Property except the following:  
 92 \_\_\_\_\_  
 93

94 **8. PERSONAL PROPERTY:** The following personal property, in "AS-IS" condition is included as a part of the Property being purchased:  
 95 \_\_\_\_\_

96 *(Attach inventory if necessary).* If certain personal property which is to be included as a part of this sale is to have a separately stated  
 97 value in addition to the Purchase Price, the parties agree to attach a separate exhibit, jointly signed, identifying the stated value(s)  
 98 of such property within \_\_\_ business days (five (5) if not filled in) following the date both parties have signed this Agreement.  
 99

100 **9. EXISTING LEASES:** The Property  is,  is not, subject to one or more existing leasehold interests, which Seller represents and  
 101 warrants are current and free from default. If applicable, Seller agrees to deliver complete and legible copies of the written lease(s) to  
 102 Buyer for review within \_\_\_ business days (three (3) if not filled in) following the date Seller and Buyer have signed this Agreement. Seller  
 103 and Buyer shall have \_\_\_ business days (five (5) if not filled in) following Buyer's receipt of all lease(s) within which to reach a signed  
 104 written agreement with Seller regarding Buyer's approval of the lease(s) and the conditions, if any, under which they will be assumed  
 105 and/or assigned. In the event such written agreement is not reached within the time provided herein, all earnest money shall be refunded  
 106 to Buyer and this transaction shall be terminated. This condition is for the benefit of both Seller and Buyer, and may not be waived by  
 107 either party without the other's written consent.  
 108

109 **10. SELLER REPRESENTATIONS:** Seller represents that to Seller's actual knowledge, without further investigation or inquiry: (1)  
 110 Seller has full and complete authority to enter into this Agreement and convey the Property in accordance with the terms hereof:  
 111 (2) There is no condemnation, environmental, zoning or similar proceeding existing or planned, which could detrimentally affect  
 112 the use, development, operation or value of the Property. (3) The Property is being operated in full compliance with all laws,  
 113 order, rules, ordinances, regulations and governmental requirements. (4) Seller has no knowledge of any hazardous substances  
 114 on the Property other than substances (if any) contained in appliances and equipment. (5) Seller knows of no material structural  
 115 defects in or about the Property. (6) All electrical wiring, heating, cooling, plumbing and irrigation equipment and systems and  
 116 the balance of the Property, including landscaping, if any, will be in substantially its present condition at the time Buyer is  
 117 entitled to possession. (7) Except as disclosed in writing, Seller has no notice of any liens or assessments to be levied against  
 118 the Property. (8) Seller has no notice from any governmental agency of any violation of law relating to the Property. (9) Seller is  
 119 not a "foreign person" under the Foreign Investment in Real Property Tax Act ("FIRPTA") as defined in Section (24) below. (10)  
 120 Seller agrees to promptly notify Buyer if, prior to closing, Seller receives actual notice of any event or condition which could  
 121 result in making any previously disclosed material information relating to the Property substantially misleading or incorrect.  
 122 Exceptions to Items (1) through (10) are: \_\_\_\_\_

LINES WITH THIS SYMBOL ← REQUIRE A SIGNATURE OF BUYER AND/OR SELLER AND DATE

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Buyer Initials _____	Date _____
Seller Initials _____	Date _____

Buyer acknowledges that the above representations are not warranties regarding the condition of the Property and are not a substitute for, nor in lieu of, Buyer's own responsibility to conduct a thorough and complete independent investigation, including the use of professionals, where appropriate, regarding all material matters bearing on the condition of the Property, its value, and its suitability for Buyer's intended use. Neither the Listing nor Selling Licensees shall be responsible for inspecting or conducting any investigation of any aspects of the Property.

**11. "AS-IS":** Except for Seller's express written agreements and written representations contained herein, and Seller's Property Disclosure, if any, Buyer is purchasing the Property "AS-IS," in its present condition and with all defects apparent or not apparent. This provision shall not be construed to limit Buyer's right to implied new home warranties, if any, that may otherwise exist under Oregon law.

**12. INSPECTIONS:** Buyer understands that it is advisable to have a complete inspection of the Property by qualified professional(s), relating to such matters as structural condition, soil condition/compaction, stability, environmental issues, survey, zoning, operating systems, and suitability for the Buyer's intended purpose. Neither the Listing nor Selling Licensees are qualified to conduct such inspections and shall not be responsible to do so. If some or all of the Property includes residential housing, Buyer is encouraged to review the Oregon Property Buyer Advisory at <http://www.oregonrealtors.com> or at <http://www.rea.state.or.us>.

At Buyer's expense, Buyer may have the Property and all elements and systems thereof inspected by one or more professionals of Buyer's choice. Such inspections shall be at Buyer's sole risk and expense, and may occur at reasonable times following reasonable notice to Seller and, where applicable, to any tenants occupying some or all of the Property under pre-existing rental agreements or leases. Buyer shall indemnify and hold Seller harmless from any and all claims, losses, liabilities or expense, including attorney fees, arising from the entry of Buyer or Buyer's, agents, employees, representatives or contactors. The preceding sentence is expressly intended to survive the closing or termination of this Agreement. Buyer must specifically identify in this Agreement any desired inspections which may include testing or removal of any portion of the Property. Buyer understands that Buyer is responsible for the restoration of the Property to its previous condition for any inspection(s)/test(s) performed by the Buyer or on Buyer's behalf. Buyer shall have \_\_\_ business days (ten (10) if not filled in), after the date Seller and Buyer have signed this Agreement, (hereinafter "the Inspection Period") in which to give Seller or Listing Licensee written notice of termination of this transaction based upon Buyer's dissatisfaction with any of the inspections conducted during the Inspection Period, in which case, all earnest money shall be promptly refunded to Buyer and this transaction shall be of no further binding effect. Upon such termination, Buyer shall promptly provide a copy of all reports to Seller if requested by Seller. If Buyer fails to provide Seller or Listing Licensee with written disapproval of any inspections by Midnight of the final day of the Inspection Period, Buyer shall be deemed to have accepted the condition of the Property.

**13. LEAD-BASED PAINT INSPECTION:** Subject to certain limited exclusions, if the Property includes a residential structure that was constructed before 1978 (hereinafter "Target Housing"), a Lead-Based Paint Disclosure Addendum (hereinafter "the Disclosure Addendum") shall be signed by Seller, Buyer and Listing and Selling Licensees, and made a part of this Sale Agreement. If the Property includes Target Housing, and Buyer intends to conduct a lead based paint assessment or inspection, it should be included as a contingency in this transaction.

**14. ESCROW:** This transaction shall be closed at Fidelity National ("Escrow"), a neutral escrow located in the State of Oregon. Costs of Escrow shall be shared equally between Seller and Buyer, unless otherwise provided herein.

**15. CLOSING: TIME IS OF THE ESSENCE.** Closing shall occur on a date mutually agreed upon by Seller and Buyer, but in no event later than November 10, 2005 ("the Closing Deadline"). The terms "closed", "closing" or "closing date" shall mean when the deed or contract is recorded and funds are available to Seller. Seller and Buyer acknowledge that for closing to occur by the Closing Deadline, it may be necessary to execute documents and deposit funds in Escrow prior to that date.

**16. POSSESSION:** Seller shall remove all personal property (including trash and debris) that is not a part of this transaction, and deliver possession of the Property to Buyer (check one):  by 5:00 p.m. on the closing date;  by \_\_\_ a.m. \_\_\_ p.m. \_\_\_ days after the closing date;  by \_\_\_ a.m. \_\_\_ p.m. on the \_\_\_ day of \_\_\_\_\_. If a tenant is currently in possession of the Property (check one):  Buyer will accept tenant at the closing date;  Seller shall have full responsibility for removal of tenant prior to closing date.

**17. PRORATIONS:** Prorates for rents, current year's real and personal property taxes, interest on assumed obligations, and other prepaid expenses attributable to the Property shall be prorated as of: (check one)  the closing date;  date Buyer is entitled to possession; or  \_\_\_\_\_

**18. SELLER'S DOCUMENTS TO BE DELIVERED TO BUYER:** (Check one)  Seller has previously delivered to Buyer copies of all documents containing material information about the Property that Seller has in Seller's possession or control including but not limited to documents and records relating to the ownership, operation and maintenance of the Property (hereinafter "Relevant Business Documents").  Seller agrees that within \_\_\_ business days (ten (10) if not filled in) following the date Seller and Buyer have signed this Agreement, Seller will deliver to Buyer Relevant Business Documents. In addition to the Relevant Business Documents, Seller shall, within the same period as provided in this Section 18, deliver to Buyer the following additional information: \_\_\_\_\_

**19. UTILITIES:** Seller shall pay all utility bills accrued to date Buyer is entitled to possession. Buyer shall pay Seller for heating fuel then on premises, at Seller's supplier's rate on the possession date. Payment shall be handled between Buyer and Seller outside of Escrow.

LINES WITH THIS SYMBOL ← REQUIRE A SIGNATURE OF BUYER AND/OR SELLER AND DATE

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Buyer Initials _____	Date _____
Seller Initials _____	Date _____

- 189 **20. INSURANCE:** Seller shall keep the Property fully insured until closing.  
 190  
 191 **21. ESCROW DEPOSIT:** Escrow is hereby instructed by Seller and Buyer as follows: (1) Upon your receipt of a copy of this Agreement  
 192 marked "rejected" by Seller or upon Listing Firm's written advice that the offer is "rejected" by Seller, you are to refund all earnest money to  
 193 Buyer. (2) Upon your receipt of a copy of this Agreement signed by Seller and Buyer set up an escrow account and proceed with closing in  
 194 accordance with the terms of this Agreement. If you determine that the transaction cannot be closed for any reason (whether or not there is  
 195 then a dispute between Seller and Buyer), you are to hold all earnest money deposits until you receive written instructions from Seller and  
 196 Buyer as to disposition of such deposits.  
 197  
 198 **22. EARNEST MONEY PAYMENT/REFUND:** If (1) Seller does not approve this Agreement; or (2) Seller approves this Agreement but fails  
 199 to furnish marketable title; or (3) Seller fails to complete this transaction in accordance with this Agreement, or perform any other act as  
 200 herein provided; or (4) any condition which Buyer has made an express contingency in this Agreement (and has not been otherwise  
 201 waived) fails through no fault of Buyer, then all earnest money shall be promptly refunded to Buyer. However, acceptance by Buyer of the  
 202 refund shall not constitute a waiver of other legal remedies available to Buyer. If Seller approves this Agreement and title is marketable;  
 203 and (1) Buyer has misrepresented Buyer's financial status; or (2) Buyer's bank does not pay, when presented, any check given as earnest  
 204 money; or (3) Buyer fails to redeem, when due, any note given as earnest money; or (4) Buyer fails to complete this transaction in  
 205 accordance with this Agreement, or perform any other act as herein provided, then all earnest money paid or agreed to be paid shall be  
 206 paid to Seller either as liquidated damages or as otherwise allowed under Oregon law, and this transaction shall be of no further binding  
 207 effect. **It is the intention of the parties that Seller's sole remedy against Buyer for Buyer's failure to close this transaction shall be**  
 208 **limited to the amount of earnest money paid or agreed to be paid herein.**  
 209  
 210 **23. BINDING EFFECT/ASSIGNMENT:** Subject to the following sentence, this Agreement is binding upon the heirs, personal  
 211 representatives, successors and assigns of Buyer and Seller. Buyer's interest in this Agreement or in the Property (check one)  are  
 212 assignable without prior written consent of Seller;  are not assignable without prior written consent of Seller;  are assignable only to an  
 213 affiliated entity owned or controlled by Buyer without prior written consent of Seller.  
 214  
 215 **24. FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT:** The Foreign Investment in Real Property Tax Act ("FIRPTA") requires  
 216 every person who purchases real property located within the United States from a "foreign person" to deduct and withhold from the Seller's  
 217 proceeds ten percent (10%) of the gross sales price, with certain exceptions, and to pay the amount withheld to the Internal Revenue  
 218 Service. A "foreign person" includes a non-resident alien individual, foreign corporation, foreign partnership, foreign trust and foreign  
 219 estate. Seller and Buyer agree to execute and deliver, as appropriate, any instrument, affidavit or statement, and to perform any acts  
 220 reasonable or necessary to carry out the provisions of FIRPTA. If Seller is a foreign person as defined by FIRPTA, Seller and Buyer  
 221 instruct Escrow to take all necessary steps to comply therewith.  
 222  
 223 **25. APPROVED USES:** THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT  
 224 PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS, WHICH, IN FARM OR  
 225 FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND WHICH LIMIT LAWSUITS AGAINST  
 226 FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS  
 227 INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR  
 228 COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND EXISTENCE OF FIRE PROTECTION FOR STRUCTURES.  
 229 IF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IS SUBJECT TO SPECIAL ASSESSMENT UNDER ORS 358.505, ORS  
 230 358.515 REQUIRES NOTIFICATION TO THE STATE HISTORIC PRESERVATION OFFICER OF SALE OR TRANSFER OF THIS  
 231 PROPERTY.  
 232  
 233 **26. IRC 1031 EXCHANGE:** In the event Seller or Buyer elect to complete an IRC 1031 exchange in this transaction, the other party  
 234 agrees to cooperate with them, and the accommodator, if any, in a manner necessary to complete the exchange, so long as it will not  
 235 delay the close of escrow or cause additional expense or liability to the cooperating party. Unless otherwise provided herein, this provision  
 236 shall not become a contingency to the closing of this transaction.  
 237  
 238 **27. LEVY OF ADDITIONAL PROPERTY TAXES:** The Property: (check one)  is  is not specially assessed for property taxes (e.g.  
 239 farm, forest or other) in a way which may result in levy of additional taxes in the future. If it is specially assessed, Seller represents that the  
 240 Property is current as to income or other conditions required to preserve its deferred tax status. If, as a result of Buyer's actions or the  
 241 closing of this transaction, the Property either is disqualified from special use assessment or loses its deferred property tax status, unless  
 242 otherwise specifically provided in this Agreement, Buyer shall be responsible for and shall pay when due, any deferred and/or additional  
 243 taxes and interest which may be levied against the Property and shall hold Seller completely harmless therefrom. However, if as a result of  
 244 the Seller's actions prior to closing, the Property either is disqualified from its entitlement to special use assessment or loses its deferred  
 245 property tax status, Seller shall be responsible for and shall pay at or before closing all deferred and/or additional taxes and interest which  
 246 may be levied against the Property and shall hold Buyer completely harmless therefrom.  
 247  
 248 **28. ADDITIONAL LAND SALE CONTRACT/TRUST DEED/MORTGAGE PROVISIONS:** If this transaction is to include a land sale  
 249 contract, trust deed or mortgage to be carried back by Seller, Buyer and Seller shall agree upon the terms and conditions of such  
 250 document not later than \_\_\_ business days (ten [10] if not filled in) after the date Seller and Buyer have signed this Agreement. Upon  
 251 failure to reach such agreement within said time period, this transaction shall be terminated, and all earnest money shall be promptly  
 252 refunded to Buyer.  
 253

LINES WITH THIS SYMBOL ← REQUIRE A SIGNATURE OF BUYER AND/OR SELLER AND DATE

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Buyer Initials _____	Date _____
Seller Initials _____	Date _____

254 29. DISPUTE RESOLUTION: Any dispute between Seller and Buyer relating to the interpretation or enforcement of this
255 Agreement (check one) [ ] shall [ ] shall not be subject to the following arbitration provisions. Failure to check a box in this
256 Section 30 shall constitute an election NOT to arbitrate. Seller and Buyer agree that all claims, controversies and disputes, including
257 those for rescission (hereinafter collectively referred to as "Claims"), relating directly or indirectly to this transaction, shall be resolved in
258 accordance with the procedures set forth herein, which shall expressly survive closing or earlier termination of this Agreement. Provided,
259 however, the following matters shall not constitute Claims: (1) any proceeding to collect, interpret or enforce any mortgage, trust deed, land
260 sale contract or recorded construction lien or (2) a forcible entry and detainer action (eviction). The filing of a notice of pending action ("lis
261 pendens") or the application to any court for the issuance of any provisional process or similar remedy described in the Oregon or Federal
262 Rules of Civil Procedure shall not constitute a waiver of the right or duty to utilize arbitration. All Claims shall be submitted to final and
263 binding private arbitration pursuant to Oregon Laws in accordance with the then-existing rules of either Arbitration Service of Portland
264 ("ASP") or, alternatively, any other professional arbitration service that has existing rules of arbitration, provided that the selected
265 alternative service also uses arbitrators who are in good standing with the Oregon State Bar, with expertise in real estate law and who can
266 conduct the hearing in the county where the Property is located. The arbitration service in which the Claim is first filed shall handle the
267 case to its conclusion. Filing for arbitration shall be treated the same as filing in court for purposes of meeting any applicable statutes of
268 limitation or for purposes of filing a lis pendens. BY CONSENTING TO THIS BINDING ARBITRATION PROVISION YOU ARE
269 AGREEING THAT DISPUTES ARISING UNDER THIS AGREEMENT SHALL BE HEARD AND DECIDED BY ONE OR MORE NEUTRAL
270 ARBITRATORS AND YOU ARE GIVING UP THE RIGHT TO HAVE THE MATTER TRIED BY A JUDGE OR JURY. THE RIGHT TO
271 APPEAL AN ARBITRATION DECISION IS LIMITED UNDER OREGON LAW.

273 30. ATTORNEY FEES: The prevailing party in any suit, action or arbitration between the Seller and Buyer shall be entitled to recovery of
274 all reasonable attorney fees and costs pursuant to ORCP 68.

276 31. RECEIPT FOR EARNEST MONEY: The undersigned Selling Firm acknowledges receipt of earnest money (which Selling Firm agrees
277 to handle as provided below) from Buyer in the sum of \$10,000 evidenced by (check one) [ ] CASH [ ] CHECK
278 [X] PROMISSORY NOTE payable on or before \_\_\_\_\_; [X] Other 3 days after mutual acceptance

280 32. EARNEST MONEY INSTRUCTIONS: Buyer instructs the undersigned Selling Firm to handle the earnest money as follows (check all
281 that apply): [ ] Hold any earnest money that is in the form of a check undeposited pending mutual acceptance of this Agreement and all
282 agreed-upon counter offers, after which time deposit it as provided herein within three (3) banking days. [ ] Deposit it in the Selling Firm's
283 client trust account, and thereafter/or [ ] Deposit with Escrow. [X] Deposit any earnest money funds redeemed under a promissory note
284 with Fidelity National Title Insurance Company
285 SELLING LICENSEE AND SELLING FIRM SHALL HAVE NO FURTHER LIABILITY WITH RESPECT TO EARNEST MONEY WHICH
286 THE PARTIES HAVE AUTHORIZED TO BE TRANSFERRED TO A THIRD PARTY.

288 Selling Firm NorthStar Realty Advisors, LLC Selling Licensee Signature \_\_\_\_\_
289 Main Office Address \_\_\_\_\_ Phone \_\_\_\_\_ FAX \_\_\_\_\_
290 Branch Office Address 4640 SW Macadam Ave Ste 90 Portland OR 97239 Phone 503-972-1900 FAX 503-972-1987

292 33. PROPERTY DISCLOSURE LAW: Seller and Buyer acknowledge that if this transaction is subject to Oregon's Seller Property
293 Disclosure Law, ORS 105.462 et. seq., unless otherwise waived, Buyer shall have a right to revoke Buyer's offer within five (5) business
294 days from Seller's delivery of Property Disclosure Statement.

296 34. COUNTERPARTS/DELIVERY: This Agreement may be signed in multiple counterparts with the same effect as if all parties signed the
297 same document. Delivery of a legible photocopy, telefax, carbon or carbonless copy of a signed original of this Agreement shall be treated
298 the same as delivery of the original.

300 35. AGREEMENT TO PURCHASE: BUYER acknowledges receipt of a completely filled in copy of this Agreement which Buyer has
301 fully read and understands. Buyer acknowledges that Buyer has not received or relied upon any oral or written statements, made
302 by Seller or any Licensees, which are not expressly contained in this Agreement. Neither Seller nor any Licensees warrant the
303 square footage of any structure or the size of any land being purchased. If square footage or land size is a material
304 consideration, all structures and land should be measured by Buyer prior to signing, or should be made an express contingency
305 in this Agreement.

307 Deed or contract shall be prepared in the name of Knott Street Medical, LLC
308 This offer shall automatically expire on (insert date) September 28, 2005 at 5:00 [ ] a.m. [X] p.m., ("the Offer Deadline"), if
309 not accepted within that time.

311 Buyer may withdraw this offer any time prior to Seller's acceptance before the Offer Deadline. If Seller accepts this offer after the Offer
312 Deadline, it shall not be binding upon Buyer unless accepted by Buyer in writing within \_\_\_\_\_ business days (two [2] if not filled in) thereafter
313 by so indicating at Section 38 below. This offer may be accepted by Seller only in writing.

315 Buyer \_\_\_\_\_ Date \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. ←

LINES WITH THIS SYMBOL ← REQUIRE A SIGNATURE OF BUYER AND/OR SELLER AND DATE

Buyer Initials \_\_\_\_/\_\_\_\_ Date \_\_\_\_
Seller Initials \_\_\_\_/\_\_\_\_ Date \_\_\_\_

316 Buyer \_\_\_\_\_ Date \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. ←  
317 Address \_\_\_\_\_ Zip \_\_\_\_\_  
318 Phone Home \_\_\_\_\_ Work \_\_\_\_\_ Work \_\_\_\_\_ Fax \_\_\_\_\_

NO CHANGES OR ALTERATIONS ARE PERMITTED TO ANY PORTION OF THE PRE-PRINTED FORMAT OR TEXT OF THIS FORM. ANY SUCH PROPOSED CHANGES OR ALTERATIONS SHOULD BE MADE ON A SEPARATE DOCUMENT. CHANGES BY SELLER OR SELLER'S AGENT TO THE TERMS OR PROVISIONS ABOVE BUYER'S SIGNATURE SHOULD ALSO BE ON A SEPARATE DOCUMENT

319 This offer was submitted to Seller for signature on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ a.m. \_\_\_\_\_ p.m.  
320 By \_\_\_\_\_ (Licensee  
321 presenting offer).  
322  
323

324  
325 **36. AGREEMENT TO SELL/PAY COMMISSION:** Seller accepts this offer. At the time of closing, Seller agrees to pay in U.S. dollars to the  
326 Selling Firm or, if this is a co-op transaction, to the Listing Firm, the sum of **\$72,000** for professional real estate services  
327 rendered in this transaction. Seller authorizes Listing Firm to order a preliminary title report and title insurance at Seller's expense and  
328 further authorizes Escrow to pay out of the cash proceeds of sale the expenses of furnishing title insurance, Seller's recording fees,  
329 Seller's closing costs and any encumbrances on the Property payable by Seller on or before closing. Seller is a U.S. citizen unless  
330 otherwise stated herein. **Seller acknowledges receipt of a completely filled in copy of this Agreement, which Seller has fully read**  
331 **and understands.** Seller acknowledges that Seller has not received or relied upon any oral or written statements of Buyer or Licensee(s)  
332 which are not expressly contained in this Agreement. In the event Buyer fails to complete this transaction as provided herein, all earnest  
333 money shall be distributed as follows after deduction of any title insurance and escrow cancellation charges: (check one)  First to the  
334 Listing Firm to the extent of the agreed commission just as if the transaction had been closed, with residue to Seller,  or \_\_\_\_\_.

335 Seller \_\_\_\_\_ Date \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. ←  
336  
337 Seller \_\_\_\_\_ Date \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. ←  
338 Address \_\_\_\_\_ Zip \_\_\_\_\_  
339 Phone Home \_\_\_\_\_ Work \_\_\_\_\_ Work \_\_\_\_\_ Fax \_\_\_\_\_

340  
341 **37. REJECTION/COUNTER OFFER:**  
342 **SELECT ONE:**  Seller does not accept the above offer, but makes the attached counter offer;  Seller rejects Buyer's offer without a  
343 counter offer.  
344 Seller \_\_\_\_\_ Date \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. ←  
345 Seller \_\_\_\_\_ Date \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. ←  
346 Address \_\_\_\_\_ Zip \_\_\_\_\_  
347 Phone Home \_\_\_\_\_ Work \_\_\_\_\_ Work \_\_\_\_\_ Fax \_\_\_\_\_

348  
349 **38. BUYER'S ACKNOWLEDGMENT:** Buyer acknowledges receipt of a copy of Seller's written response to this Agreement. If Seller's  
350 response is an acceptance of Buyer's offer that occurred after the Offer Deadline identified at Section 35 above, Buyer (select only one)   
351 agrees  does not agree, to be bound thereby. (The failure to check either box shall constitute rejection of Seller's acceptance  
352 after the Offer Deadline.)  
353

354 Buyer \_\_\_\_\_ Date \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. ←  
355 Buyer \_\_\_\_\_ Date \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. ←

356  
357 **39. CO-OP TRANSACTION:**  
358 Selling Firm NorthStar Realty Advisors, LLC Selling Licensee Bernie Gehret  
359 Listing Firm NorthStar Realty Advisors, LLC Listing Licensee Bernie Gehret  
360 Selling Firm to receive: (select one) \_\_\_\_\_ % of purchase price or \$ \_\_\_\_\_  
361 Listing Firm Main Office Address \_\_\_\_\_ Phone \_\_\_\_\_ FAX \_\_\_\_\_  
362 Listing Firm Branch Office Address 4840 SW Macadam Ave Ste 90 Portland OR 97239 Phone 503-972-1900 FAX 503-972-1987  
363 Listing Firm Principal Broker Initials/Date \_\_\_\_\_ / \_\_\_\_\_ Selling Firm Principal Broker Initials/Date \_\_\_\_\_ / \_\_\_\_\_

LINES WITH THIS SYMBOL ← REQUIRE A SIGNATURE OF BUYER AND/OR SELLER AND DATE

Buyer Initials \_\_\_\_\_ / \_\_\_\_\_ Date \_\_\_\_\_  
Seller Initials \_\_\_\_\_ / \_\_\_\_\_ Date \_\_\_\_\_



**PROMISSORY NOTE FOR EARNEST MONEY**

1 Buyer(s) Knott Street Medical, LLC  
2 Seller(s) Multnomah County  
3 Property Address 301 NE Knott Street, Portland, OR

4  
5 Buyer(s): Knott Street Medical, LLC  
6 jointly and severally promise to pay to (select only one payee):

- 7  Real Estate Firm: \_\_\_\_\_
- 8  Seller(s): \_\_\_\_\_
- 9 the sum of \$10,000

10  
11 1) Upon redemption of this promissory note, funds shall be made payable to Fidelity National Title Insurance Company

12 2) This Note is due and payable (select only one due date):

- 13  3 days after mutual acceptance of the Real Estate Sale Agreement;
- 14  on or before \_\_\_\_\_, \_\_\_\_\_.

15  
16 3) If this Note is not paid when due, Buyer(s) shall pay interest at the rate of ten percent (10%) per annum on the unpaid balance from the due date until it is paid in full. **BUYER(S) UNDERSTAND(S) THAT TIME IS OF THE ESSENCE, AND THAT THE FAILURE TO PAY THIS NOTE WHEN DUE, MAY CONSTITUTE A DEFAULT UNDER THE REAL ESTATE SALE AGREEMENT WITH SELLER.**

17  
18 4) If Real Estate Firm is named as the payee of this Note, and Note is not paid when due, Buyer(s) hereby consent(s) to Real Estate Firm assigning and transferring it to Seller(s) for all purposes including collection.

19 5) This Note is hereby incorporated into and made a part of the Real Estate Sale Agreement between Seller(s) and Buyer(s). In the event of any dispute between said parties, the mediation, arbitration and attorney fee provisions therein shall expressly apply.

20 6) If payment is not made on or before the due date, Buyer(s) understand that Principal Broker is instructed by Seller(s) to promptly assign and transfer this Note to Seller(s), without recourse, and for all purposes, including collection. It is expressly understood and agreed that neither Principal Broker nor Principal Broker's Firm, its owners, officers or directors, licensees, employees or representatives shall have any duty (fiduciary or otherwise), responsibility or liability to Seller(s) to enforce collection of the Note, nor for any fees or costs associated therewith.

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37 Buyer \_\_\_\_\_ Date \_\_\_\_\_ ← Seller \_\_\_\_\_ Date \_\_\_\_\_ ←  
38 Buyer \_\_\_\_\_ Date \_\_\_\_\_ ← Seller \_\_\_\_\_ Date \_\_\_\_\_ ←

LINES WITH THIS SYMBOL ← REQUIRE A SIGNATURE AND DATE

Principal Broker's Initials \_\_\_\_\_  
Date \_\_\_\_\_



## DISCLOSED LIMITED AGENCY AGREEMENT FOR BUYERS

1 Property Address 301 NE Knott Street, Portland, OR

2  
3 Addendum to Buyer Service Agreement Dated \_\_\_\_\_ Real Estate Firm NorthStar Realty Advisors, LLC

4  
5 The Parties to this Disclosed Limited Agency Agreement are:

6  
7 Buyers Agent (print) Bernie Gehret

8  
9 Buyers Agent's Principal Broker (print) Robert Baumann

10  
11 Buyer (print) Knott Street Medical, LLC Buyer (print) \_\_\_\_\_

12  
13 The parties to this Agreement understand that Oregon law allows a single real estate agent to act as a disclosed limited agent to represent  
14 both the seller and the buyer in the same real estate transaction, or multiple buyers who want to purchase the same property. It is also  
15 understood that when different agents associated with the same principal broker (the broker who directly supervises the other agents)  
16 establish agency relationships with the buyer and seller in a real estate transaction, the agents' principal broker shall be the only broker  
17 acting as a disclosed limited agent representing both seller and buyer. The other agents shall continue to represent only the party with  
18 whom they have an established agency relationship, unless all parties agree otherwise in writing.

19  
20 In consideration of the above understanding, and the mutual promises and benefits exchanged here and, if applicable, in the Buyer  
21 Service Agreement, the parties now agree as follows:

22  
23 1. Buyer(s), acknowledge they have received the Oregon Real Estate Agency Disclosure Pamphlet required by ORS 696.820 and have  
24 read and discussed with the Buyers Agent that part of the pamphlet entitled "Duties and Responsibilities of an Agent Who Represents  
25 More than One Client to a Transaction." The Oregon Real Estate Agency Disclosure Pamphlet is hereby incorporated into this Disclosed  
26 Limited Agreement by reference.

27  
28 2. Buyer(s), having discussed with Buyers Agent the duties and responsibilities of an agent who represents more than one party to a  
29 transaction, consent and agree as follows:

30  
31 (A) Buyers Agent and the Buyers Agent's Principal Broker, in addition to representing Buyer, may represent the seller or another  
32 buyer in any transaction involving the Buyer;

33  
34 (B) In a transaction where the seller is represented by an agent who works in the same real estate business as the Buyers Agent  
35 and who is supervised by the Buyers Agent's Principal Broker, the Principal Broker may represent both Seller and Buyer. In such  
36 a situation, the Buyers Agent will continue to represent only the Buyer and the other agent will represent only the Seller,  
37 consistent with the applicable duties and responsibilities set out in the Oregon Real Estate Agency Disclosure Pamphlet;

38  
39 (C) In all other cases, the Buyers Agent and the Buyers Agent's Principal Broker shall represent Buyer exclusively.

40  
41 Buyer Signature \_\_\_\_\_ Date \_\_\_\_\_, \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. ←

42 Buyer Signature \_\_\_\_\_ Date \_\_\_\_\_, \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. ←

43 Buyer's Agent Signature \_\_\_\_\_ Date \_\_\_\_\_, \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. ←

(On their own and on the Principal Broker's behalf)

LINES WITH THIS SYMBOL ← REQUIRE A SIGNATURE AND DATE

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OREF 041-1

Principal Broker's Initials \_\_\_\_\_  
Date \_\_\_\_\_

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**MULTNOMAH COUNTY  
AGENDA PLACEMENT REQUEST**

**Board Clerk Use Only**

**Meeting Date:** 10/06/05  
**Agenda Item #:** R-12  
**Est. Start Time:** 10:55 AM  
**Date Submitted:** 09/28/05

**BUDGET MODIFICATION:** -

**Agenda Title:** **RESOLUTION Authorizing Transfer of Title to the Morrison Property**

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

<b>Date Requested:</b>	<u>October 6, 2005</u>	<b>Time Requested:</b>	<u>10 minutes</u>
<b>Department:</b>	<u>Non-Departmental</u>	<b>Division:</b>	<u>Commissioner District 1 Rojo de Steffey</u>
<b>Contact(s):</b>	<u>Matthew Lashua</u>		
<b>Phone:</b>	<u>503 988 6796</u>	<b>Ext.</b>	<u>86796</u>
		<b>I/O Address:</b>	<u>503/6</u>
<b>Presenter(s):</b>	<u>Commissioner Rojo de Steffey; David Bragdon – Council President, Metro; Steve Oswald – Friends of the Lone Fir Cemetery</u>		

**General Information**

**1. What action are you requesting from the Board?**

Approval of the transfer of title to the Morrison Property to Metro

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

In January, 2005, Commissioner Rojo de Steffey oversaw an excavation of three sites on the Morrison property to determine whether any human remains still rested there. On January 19<sup>th</sup>, 2005, human remains were found along with many artifacts including Chinese grave markers. By state law, these discoveries designated the Morrison Property as an archaeological site.

In February, 2005 the Board resolved to find funds and demolish the Morrison Building. Funds were found and allocated to the demolition. The building was demolished in July – September, 2005.

Metro owns the Lone Fir Cemetery adjacent to the Morrison Property. Since the Morrison Property was once part of the Lone Fir Cemetery and since there are human remains on the Morrison

Property, it is in the County's best interest to transfer the property to Metro, thereby incorporating it with the Lone Fir Cemetery.

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

It costs approximately \$2,500 per month to maintain the Morrison Building and the surrounding grounds in its 'mothballed' status. The transfer of this property would eliminate this expense and the long-term liabilities associated with the ownership of this property.

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

A non-binding Memorandum of Understanding has been developed between the County, Metro, and the City of Portland (which is donating money for landscaping and other site improvements) to facilitate the legal transfer of the property. There are no known legal or policy issues.

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

This transfer is supported by the Friends of Lone Fir, the Buckman Neighborhood Association, the Chinese Consolidated Benevolent Association and other interested stakeholders and will continue to work with Metro and Multnomah County to explore options to memorialize the site.

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**Required Signatures**

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**Department/  
Agency Director:**

*Maria Pijo de Steffey*

**Date:** 09/28/05

**Budget Analyst:**

**Date:**

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**

**BOGSTAD Deborah L**

---

**From:** LASHUA Matthew  
**Sent:** Tuesday, September 20, 2005 3:24 PM  
**To:** 'eeschwab@qwest.net'  
**Subject:** FW: Save the Date - October 6th

Hi Mary Ann

I was informed you were looking for the dates for the Morrison Property Resolution. This went out last week. I offer my sincere apology for not getting this to you. I could have sworn you were on the distribution list for the community relating to the Morrison Property.

Please let me know if you have any questions. Thanks!

Matthew Lashua



Greetings!

Please save the date to attend the regular Board Meeting of the Multnomah County Commissioners on October 6th:

Commissioner Maria Rojo de Steffey will bring forward two resolutions regarding the Morrison property for the Board's vote. One is the long-awaited Board approval for the county to transfer the Morrison property to Metro. The other resolution is for the transfer of the artifacts found on the Morrison property during the archeological dig. The Board will vote on transferring the artifacts to the Chinese Consolidated Benevolent Association for display. Metro Council President David Bragdon, Stephen Ying, President of the Chinese Consolidated Benevolent Association, Board members of The Friends of the Lone Fir Cemetery, and Jo Reese of Archeological Investigations Northwest are scheduled to offer testimony and presentations.

Some of the artifacts will be on display for the Board meeting. This will be the first chance to see the artifacts cleaned and ready for display since the dig in January this year. A reception, graciously hosted by the CCBA, will follow in the Board Room.

Thursday October 6<sup>th</sup>  
Multnomah County Board Room

Resolution Authorizing Transfer of the Morrison Property to Metro – 10:40 AM  
Resolution Authorizing Transfer of the Morrison Property Artifacts – 10:55 AM

Commissioner Rojo de Steffey looks forward to seeing you at this event. If you have any questions or comments, please let me know.

Regards,

9/20/2005

**BOGSTAD Deborah L**

---

**From:** LASHUA Matthew  
**Sent:** Tuesday, September 27, 2005 11:52 AM  
**To:** BOGSTAD Deborah L  
**Subject:** RE: Oct. 6th

Thanks Deb

You're right - he does have to leave by 11:15 the latest is what I think he said. You're on top of the ordering so I leave that to you. Bragdon's schedule is the one to try and accommodate – the community can wait.

Thanks Again!

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

**From:** BOGSTAD Deborah L  
**Sent:** Tuesday, September 27, 2005 11:46 AM  
**To:** LASHUA Matthew  
**Subject:** RE: Oct. 6th

I was worried about Mr. Bragdon needing to be done by 11:00 . . . when I left the voice mail I had completely forgotten the Board continued the Steffanoff ITAX hearing to 10/06 – that may take up to 15 minutes – we won't know until October 6th. Here's what I can do. Have the sale of the Morrison Bldg first, then the continued hearing, then the artifacts – then adjourn for the reception.

**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](mailto:deborah.l.bogstad@co.multnomah.or.us)**  
**<http://www.co.multnomah.or.us/cc/index.shtml>**

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

**From:** LASHUA Matthew  
**Sent:** Tuesday, September 27, 2005 10:59 AM  
**To:** BOGSTAD Deborah L  
**Subject:** Oct. 6th

Hi Deb:

I got your voice mail – that's fine. I've already sent out the time to the community – they get confused so I won't update it. As long as it's not earlier, they can hang out for 10 extra minutes.

Thanks for the heads up!

Matthew Lashua

9/27/2005

Matthew Lashua  
Office of Commissioner Rojo de Steffey  
Multnomah County - District One  
501 SE Hawthorne, Suite 600  
Portland, OR 97214  
503 988 6796  
503 988 5440 fax

#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: 9-6-05

SUBJECT: LOVE FIRCEMERY

AGENDA NUMBER OR TOPIC: R-12 & R-13

FOR:  AGAINST:  THE ABOVE AGENDA ITEM

NAME: CHRISTINA WALSH

ADDRESS: 2920 SE 17TH AVE

CITY/STATE/ZIP: PORTLAND, OR

PHONE: DAYS: 503-234-5085 EVES: 503-234-5085

EMAIL: ChristinaWhiskers@comcast.net

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.

#2

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: Oct. 6

SUBJECT: Home Fil Com.

AGENDA NUMBER OR TOPIC: R-12-R-13

FOR: \_\_\_\_\_ AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Gabriel Guerrero

ADDRESS: 626 SW Mariposa Way

CITY/STATE/ZIP: Portland 97005

PHONE: \_\_\_\_\_ DAYS: 257-8467 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.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 05-171**

Authorizing Transfer of Title to the Morrison Property

**The Multnomah County Board of Commissioners Finds:**

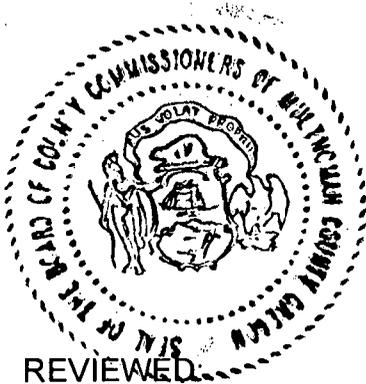
- a. In March 2002, by Resolution 02-032, the Board resolved to dispose of certain county-owned property deemed surplus, including the Morrison Building, located at 2115 SE Morrison Street ("Morrison Property").
- b. Commissioner Rojo de Steffey facilitated a public hearing on January 21, 2004 regarding the disposition of the Morrison Property and to invite public comment. Many concerns were raised because of the Morrison Property's close proximity to the Lone Fir Cemetery.
- c. On March 4, 2004, by Resolution 04-022, the Board created the Morrison Property Task Force. The Task Force included local government representatives and community leaders. It was chaired by Commissioner Rojo de Steffey and tasked with assessing all disposition options and devising a plan for disposition of the Morrison Property that enhances the Buckman neighborhood and is in the best interest of the county.
- d. After meeting once a month for nine months the Taskforce completed its work and presented it to the Board on November 23, 2004. One of its recommendations was that the county provide a six month period for development of a community-driven plan.
- e. On December 9, 2004, by Resolution 04-182, the Board resolved to accept the recommendation of the Taskforce and take no action to dispose of the Morrison Property to allow the community committee to develop a plan. Commissioner Rojo de Steffey was directed to be the county liaison for the community during this six month period.
- f. The Morrison Property was once part of the Lone Fir Cemetery. Many individuals, including Chinese immigrant railroad workers, were buried on the site.
- g. It was believed that all of the Chinese burials were disinterred and returned to China.
- h. The Chinese Consolidated Benevolent Association believed that although many of the men had been disinterred and returned to China, women and children were not returned and still remained on the Morrison Property.

- i. In January, 2005, Commissioner Rojo de Steffey oversaw an excavation of three sites on the Morrison Property to determine whether any human remains were still on the property.
- j. Human remains were found on the Morrison Property along with many artifacts including Chinese grave markers.
- k. This discovery resulted in certain portions of the Morrison Property being designated as an official archaeological site.
- l. In February, 2005, by Resolution 05-027, the Board resolved to find funds and demolish the Morrison Building. Funds were found and allocated to the demolition of the Morrison Building which has been completed.
- m. Metro owns the Lone Fir Cemetery adjacent to the Morrison Property.
- n. It is in the county's best interest to transfer the Morrison Property to Metro, thereby reincorporating it with the Lone Fir Cemetery.

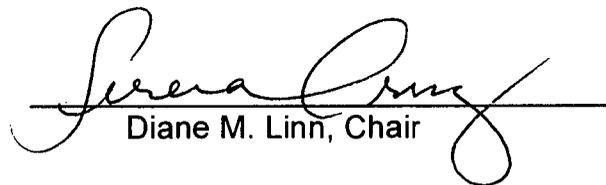
**The Multnomah County Board of Commissioners Resolves:**

- 1. The Facilities & Property Management Division shall negotiate an agreement to transfer the Morrison Property to Metro.
- 2. The Chair is authorized to execute all documents necessary to complete the transfer.

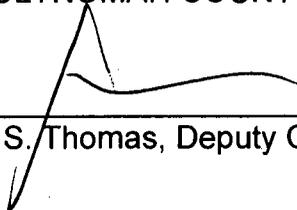
ADOPTED this 6th day of October, 2005.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Diane M. Linn, Chair

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
John S. Thomas, Deputy County Attorney



**MULTNOMAH COUNTY  
AGENDA PLACEMENT REQUEST**

**Board Clerk Use Only**

**Meeting Date:** 10/06/05  
**Agenda Item #:** R-13  
**Est. Start Time:** 11:05 AM  
**Date Submitted:** 09/28/05

**BUDGET MODIFICATION:** -

**Agenda Title:** **RESOLUTION Authorizing Transfer of Artifacts to the Chinese Consolidated Benevolent Association**

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

<b>Date Requested:</b>	<u>October 6, 2005</u>	<b>Time Requested:</b>	<u>10 minutes</u>
<b>Department:</b>	<u>Non-Departmental</u>	<b>Division:</b>	<u>Rojo de Steffey</u>
<b>Contact(s):</b>	<u>Matthew Lashua</u>		
<b>Phone:</b>	<u>503 988 6796</u>	<b>Ext.:</b> <u>86796</u>	<b>I/O Address:</b> <u>503/6</u>
<b>Presenter(s):</b>	<u>Jo Reese – Archeological Investigations NW; Stephen Ying – President, CCBA</u>		

**General Information**

**1. What action are you requesting from the Board?**

Approval of the transfer of stewardship of the Morrison Property Artifacts to the Consolidated Chinese Benevolent Association for long term storage, display and curation.

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

In January, 2005, Commissioner Rojo de Steffey oversaw an excavation of three sites on the Morrison Property to determine whether any human remains were still on the property. Human remains were found on the property along with many artifacts including Chinese grave markers.

This discovery resulted in certain portions of the Morrison Property being designated as an official archaeological site. Under state laws dealing with archaeological sites, the county's contracted archaeologist, AINW obtained a permit from the State Historic Preservation Office to collect the artifacts on the county's property. The permit under which the archaeological work has been done noted the Oregon State Museum of Anthropology would be the repository of the artifacts. The county is requesting those artifacts collected during the exploratory work from the former Chinese cemetery area be curated by the CCBA.

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

None

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

The county's contracted archaeologist and Commissioner Rojo de Steffey is ensuring all state regulations regarding archeological sites and artifacts are followed.

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

The CCBA intends to display the artifacts in their downtown (Chinatown) Portland location. This will become part of their Chinese heritage collection. The CCBA will allow access to the collection for researchers and scholars.

---

**Required Signatures**

---

**Department/  
Agency Director:**

*Maria Rojo de Steffey*

**Date:** 09/28/05

**Budget Analyst:**

**Date:**

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. \_\_\_\_\_**

Authorizing Transfer of Artifacts to the Chinese Consolidated Benevolent Association

**The Multnomah County Board of Commissioners Finds:**

- a. In March 2002, by Resolution 02-032, the Board resolved to dispose of certain county-owned property deemed surplus, including the Morrison Building, located at 2115 SE Morrison Street ("Morrison Property").
- b. The Morrison Property was once part of the Lone Fir Cemetery. Many individuals, including Chinese immigrant railroad workers, were buried on the site.
- c. It was believed that all of the Chinese burials were disinterred and returned to China.
- d. The Chinese Consolidated Benevolent Association believed that although many of the men had been disinterred and returned to China, women and children were not returned and still remained on the Morrison Property.
- e. In January, 2005, Commissioner Rojo de Steffey oversaw an excavation of three sites on the Morrison Property to determine whether any human remains were still on the property.
- f. Human remains were found on the property along with many artifacts including Chinese grave markers ("Artifacts").
- g. This discovery resulted in certain portions of the Morrison Property being designated as an official archaeological site.
- h. The Chinese Consolidated Benevolent Association ("CCBA") in Portland, Oregon was created to serve and protect Chinese interests in the community.
- i. It is in the county's best interest to transfer the Artifacts found to the CCBA.

**The Multnomah County Board of Commissioners Resolves:**

1. Facilities & Property Management Division is directed to transfer the Artifacts to the CCBA.

2. Commissioner Rojo de Steffey is designated to continue working with the CCBA, the county's contract archaeologist and state officials to ensure all regulations concerning the Artifacts are followed.

ADOPTED this 6th day of October, 2005.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

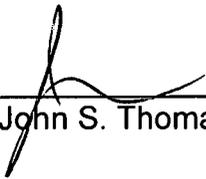
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Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By



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John S. Thomas, Deputy County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 05-172**

Authorizing Transfer of Artifacts to the Chinese Consolidated Benevolent Association

**The Multnomah County Board of Commissioners Finds:**

- a. In March 2002, by Resolution 02-032, the Board resolved to dispose of certain county-owned property deemed surplus, including the Morrison Building, located at 2115 SE Morrison Street ("Morrison Property").
- b. The Morrison Property was once part of the Lone Fir Cemetery. Many individuals, including Chinese immigrant railroad workers, were buried on the site.
- c. It was believed that all of the Chinese burials were disinterred and returned to China.
- d. The Chinese Consolidated Benevolent Association believed that although many of the men had been disinterred and returned to China, women and children were not returned and still remained on the Morrison Property.
- e. In January, 2005, Commissioner Rojo de Steffey oversaw an excavation of three sites on the Morrison Property to determine whether any human remains were still on the property.
- f. Human remains were found on the property along with many artifacts including Chinese grave markers ("Artifacts").
- g. This discovery resulted in certain portions of the Morrison Property being designated as an official archaeological site.
- h. The Chinese Consolidated Benevolent Association ("CCBA") in Portland, Oregon was created to serve and protect Chinese interests in the community.
- i. It is in the county's best interest to transfer the Artifacts found to the CCBA.

**The Multnomah County Board of Commissioners Resolves:**

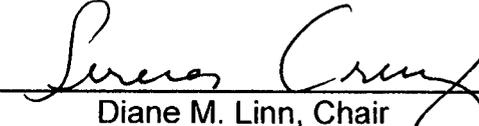
1. Facilities & Property Management Division is directed to transfer the Artifacts to the CCBA.

2. Commissioner Rojo de Steffey is designated to continue working with the CCBA, the county's contract archaeologist and state officials to ensure all regulations concerning the Artifacts are followed.

ADOPTED this 6th day of October, 2005.

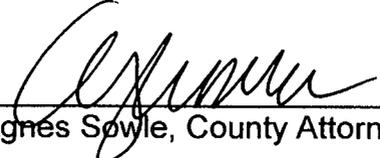


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Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
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Agnes Sowle, County Attorney