



**Multnomah County Oregon**

## **Board of Commissioners & Agenda**

*connecting citizens with information and services*

### **BOARD OF COMMISSIONERS**

**Diane Linn, Chair**

501 SE Hawthorne Boulevard, Suite 600  
Portland, Or 97214

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

Email: [mult.chair@co.multnomah.or.us](mailto:mult.chair@co.multnomah.or.us)

**Maria Rojo de Steffey, Commission Dist. 1**

501 SE Hawthorne Boulevard, Suite 600  
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Phone: (503) 988-5220 FAX (503) 988-5440

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**Serena Cruz, Commission Dist. 2**

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**Lisa Naito, Commission Dist. 3**

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**Lonnie Roberts, Commission Dist. 4**

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Portland, Or 97214

Phone: (503) 988-5213 FAX (503) 988-5262

Email: [lonnie.j.roberts@co.multnomah.or.us](mailto:lonnie.j.roberts@co.multnomah.or.us)

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### **OCTOBER 14, 2004 REV BOARD MEETING**

#### **FASTLOOK AGENDA ITEMS OF INTEREST**

Pg 2	9:30 a.m. Opportunity for Public Comment on Non-Agenda Matters
Pg 2	9:30 a.m. Vulnerable Adult Abuse Awareness Month
Pg 2	9:45 a.m. First Reading of an Ordinance Amending MCC Chapter 21, Health, Relating to Hospital Outdoor No Smoking Policy
Pg 3	9:55 a.m. Authorizing Property Lease for Automated Teller Machine Sites
Pg 3	10:00 a.m. Board Update on Budget Priority Setting Process
Pg 3	2:00 p.m. Continued Board Update on Budget Priority Setting Process

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Television

(503) 491-7636, ext. 333 for further info  
or: <http://www.mctv.org>

Thursday, October 14, 2004 - 9:30 AM  
Multnomah Building, First Floor Commissioners Boardroom 100  
501 SE Hawthorne Boulevard, Portland

## **REGULAR MEETING**

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

- C-1 Appointments of Karen Barton and Cynthia Winter to the AFFORDABLE HOUSING DEVELOPMENT PROGRAM TECHNICAL REVIEW COMMITTEE (AHDP)
- C-2 Appointments of Basil Panaretos Jr., Sharon Cowley, Robert Heimbucher, William L. Gibbs, Michael Mace, William N. Ross, Harvey Rice, Janice Williams, Chris Noble, Helen Ellison, Kenny Wu, James Dunn, Nancy Haller and Marie Sowers to the 2004-2005 BOARD OF PROPERTY TAX APPEALS

### **DEPARTMENT OF BUSINESS AND COMMUNITY SERVICES**

- C-3 Government Non-Expenditure Contract (Non-190 Agreement) 0405020 with the City of Portland, Bureau of Environmental Services, to Allow Work to be Performed on the West Side Combined Sewer Overflow Project Near the Burnside and Broadway Bridges

### **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 PROCLAMATION Proclaiming October 14, 2004 Vulnerable Adult Abuse Awareness Day in Multnomah County, Oregon. Presented by Commissioner Maria Rojo de Steffey, Claire Ochs and Maggie White. 15 MINUTES REQUESTED.
- R-2 First Reading of a Proposed Ordinance Amending MCC Chapter 21, Health, Relating to Hospital Outdoor No Smoking Policy

**DEPARTMENT OF BUSINESS AND COMMUNITY SERVICES - 9:55 AM**

- R-3 RESOLUTION Declaring Property Located within Six County Buildings to be Surplus and Approving a Real Property Lease for Automated Teller Machine Sites to Point West Credit Union
- 

Thursday, October 14, 2004 - 10:00 AM  
Multnomah Building, Third Floor Conference Room 315  
501 SE Hawthorne Boulevard, Portland

**BOARD BRIEFING**

- B-1 Board Briefing: Update on Budget Priority Setting Process. Presented by Chair Diane Linn, Vice Chair Serena Cruz, Dave Boyer, Karyne Dargan and Invited Others. 2 HOURS REQUESTED.
- 

Thursday, October 14, 2004 - 2:00 PM  
Multnomah Building, Third Floor Conference Room 315  
501 SE Hawthorne Boulevard, Portland

**CONTINUED BOARD BRIEFING**

- B-1 Continued Board Briefing: Update on Budget Priority Setting Process. Chair Diane Linn, Vice Chair Serena Cruz, Dave Boyer, Karyne Dargan and Invited Others. 1 HOUR REQUESTED.



**Multnomah County Oregon**

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**OCTOBER 14, 2004**

### **BOARD MEETING**

#### **FASTLOOK AGENDA ITEMS OF INTEREST**

Pg 2	9:00 a.m. If Needed Executive Session
Pg 3	9:30 a.m. Opportunity for Public Comment on Non-Agenda Matters
Pg 3	9:30 a.m. Vulnerable Adult Abuse Awareness Month
Pg 3	9:45 a.m. First Reading of an Ordinance Amending MCC Chapter 21, Health, Relating to Hospital Outdoor No Smoking Policy
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Thursday, October 14, 2004 - 9:00 AM  
Multnomah Building, First Floor Commissioners Conference Room 112  
501 SE Hawthorne Boulevard, Portland

## **IF NEEDED EXECUTIVE SESSION**

- E-1 The Multnomah County Board of Commissioners Will Meet in Executive Session Pursuant to ORS 192.660(1)(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. 30 MINUTES REQUESTED.
- 

Thursday, October 14, 2004 - 9:30 AM  
Multnomah Building, First Floor Commissioners Boardroom 100  
501 SE Hawthorne Boulevard, Portland

## **REGULAR MEETING**

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

- C-1 Appointments of Karen Barton and Cynthia Winter to the AFFORDABLE HOUSING DEVELOPMENT PROGRAM TECHNICAL REVIEW COMMITTEE (AHDP)
- C-2 Appointments of Basil Panaretos Jr., Sharon Cowley, Robert Heimbucher, William L. Gibbs, Michael Mace, William N. Ross, Harvey Rice, Janice Williams, Chris Noble, Helen Ellison, Kenny Wu, James Dunn, Nancy Haller and Marie Sowers to the 2004-2005 BOARD OF PROPERTY TAX APPEALS

### **DEPARTMENT OF BUSINESS AND COMMUNITY SERVICES**

- C-3 Government Non-Expenditure Contract (Non-190 Agreement) 0405020 with the City of Portland, Bureau of Environmental Services, to Allow Work to be Performed on the West Side Combined Sewer Overflow Project Near the Burnside and Broadway Bridges

**REGULAR AGENDA - 9:30 AM**  
**PUBLIC COMMENT - 9:30 AM**

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

- R-1 PROCLAMATION Proclaiming October 14, 2004 Vulnerable Adult Abuse Awareness Day in Multnomah County, Oregon. Presented by Commissioner Maria Rojo de Steffey, Claire Ochs and Maggie White. 15 MINUTES REQUESTED.
- R-2 First Reading of a Proposed Ordinance Amending MCC Chapter 21, Health, Relating to Hospital Outdoor No Smoking Policy

**DEPARTMENT OF BUSINESS AND COMMUNITY SERVICES - 9:55 AM**

- R-3 RESOLUTION Declaring Property Located within Six County Buildings to be Surplus and Approving a Real Property Lease for Automated Teller Machine Sites to Point West Credit Union

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Thursday, October 14, 2004 - 10:00 AM  
(OR IMMEDIATELY FOLLOWING REGULAR MEETING)  
Multnomah Building, First Floor Commissioners Boardroom  
501 SE Hawthorne Boulevard, Portland

**BOARD BRIEFING**

- B-1 Board Briefing: Update on Budget Priority Setting Process. Presented by Dave Boyer, Karyne Dargan and Mark Campbell. 2 HOURS REQUESTED.

## AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** October 14, 2004

**Agenda Item #:** E-1

**Est. Start Time:** 9:00 AM

**Date Submitted:** 10/06/04

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**Requested Date:** October 14, 2004

**Time Requested:** 30 mins

**Department:** Non-Departmental

**Division:** County Attorney

**Contact/s:** Agnes Sowle

**Phone:** 503 988-3138

**Ext.:** 83138

**I/O Address:** 503/500

**Presenters:** Agnes Sowle

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**Agenda Title:** IF NEEDED - The Multnomah County Board of Commissioners Will Meet in Executive Session Pursuant to ORS 192.660(1)(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.

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

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1. **What action are you requesting from the Board? What is the department/agency recommendation?**
2. **Please provide sufficient background information for the Board and the public to understand this issue.**
3. **Explain the fiscal impact (current year and ongoing).**

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

**If a budget modification, explain:**

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

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

**NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)**

**If a contingency request, explain:**

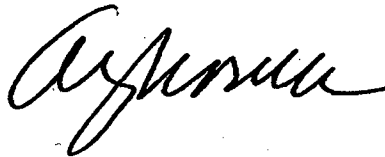
- ❖ Why was the expenditure not included in the annual budget process?
- ❖ What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?
- ❖ Why are no other department/agency fund sources available?
- ❖ Describe any new revenue this expenditure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

**If grant application/notice of intent, explain:**

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

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

**Required Signatures:**



**Department/Agency Director:** \_\_\_\_\_

**Date:** 10/06/04

**Budget Analyst**

**By:** \_\_\_\_\_

**Date:**

**Dept/Countywide HR**

**By:** \_\_\_\_\_

**Date:**



## AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** October 14, 2004

**Agenda Item #:** C-1

**Est. Start Time:** 9:30 AM

**Date Submitted:** 09/29/04

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**Requested Date:** 10/14/2004

**Time Requested:** N/A

**Department:** Non-Departmental

**Division:** Chair's Office

**Contact/s:** Chair Diane Linn, Delma Farrell

**Phone:** 503/988-3308

**Ext.:** 83953

**I/O Address:** 503/600

**Presenters:** Consent Calendar

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**Agenda Title:** Appointments of Karen Barton and Cynthia Winter to the Affordable Housing Development Program Technical Review Committee (AHDP)

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

- 
1. **What action are you requesting from the Board? What is the department/agency recommendation?**  
Request Board approval of appointments of Karen Barton and Cynthia Winter to the Affordable Housing Development Program Technical Review Committee.
  2. **Please provide sufficient background information for the Board and the public to understand this issue.**  
The Affordable Housing Development Program Technical Review Committee makes recommendations to the Board of County Commissioners regarding disposition of all tax foreclosed property for affordable housing under the procedures of the Affordable Housing Development Program. Membership is comprised of representatives from the City of Gresham, City of Portland, the Community Development Block Grant Urban County Policy Advisory Board, a philanthropic organization, the banking industry, the Citizen Involvement Committee, and the Board of County Commissioners. Members are appointed by the County Chair with approval of the Board of County Commissioners. H. C. Tupper of the Office of School and Community Partnerships, Community Programs & Partnerships, is the staff liaison.
  3. **Explain the fiscal impact (current year and ongoing).**  
No current year/ongoing fiscal impact.

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

**If a budget modification, explain:**

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

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

**NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)**

**If a contingency request, explain:**

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

**If grant application/notice of intent, explain:**

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

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

No legal and/or policy issues involved.

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

NA

**Required Signatures:**

**Department/Agency Director:** \_\_\_\_\_



**Date: 09/29/04**

## AGENDA PLACEMENT REQUEST

BUD MOD #:

**Board Clerk Use Only:**

**Meeting Date:** October 14, 2004

**Agenda Item #:** C-2

**Est. Start Time:** 9:30 AM

**Date Submitted:** 09/29/04

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**Requested Date:** 10/14/2004

**Time Requested:** N/A

**Department:** Non-Departmental

**Division:** Chair's Office

**Contact/s:** Chair Diane Linn

**Phone:** 53/988-3308

**Ext.:** 83308

**I/O Address:** 503/600

**Presenters:** Consent Calendar

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**Agenda Title:** Appointments of Basil Panaretos Jr., Sharon Cowley, Robert Heimbucher, William L. Gibbs, Michael Mace, William N. Ross, Harvey Rice, Janice Williams, Chris Noble, Helen Ellison, Kenny Wu, James Dunn, Nancy Haller and Marie Sowers to the 2004-2005 Board of Property Tax Appeals

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

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

Request the Board approve the appointments of Basil Panaretos Jr., Sharon Cowley, Robert Heimbucher, William L. Gibbs, Michael Mace, William N. Ross, Harvey Rice, Janice Williams, Chris Noble, Helen Ellison, Kenny Wu, James Dunn, Nancy Haller and Marie Sowers to the Board of Property Tax Appeals.
- 2. Please provide sufficient background information for the Board and the public to understand this issue.**

The Board of Property Tax Appeals (BOPTA) hears petitions for reductions for real market or assessed value of property (as specified in ORS 309.026). BOPTA considers applications to excuse liability for penalty imposed under ORS 308.295. Membership is comprised of a pool of members of the County governing body or non-office holding County residents to serve in their place, a pool of non-office holding residents of the County who are not employees of the County or of any taxing district within the County, a pool of members of the governing body of a school district within the County. Appointed annually on or before October 15th.

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

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

**If a budget modification, explain:**

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

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

**NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)**

**If a contingency request, explain:**

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

**If grant application/notice of intent, explain:**

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

4. Explain any legal and/or policy issues involved.  
No legal and/or policy issues involved.
5. Explain any citizen and/or other government participation that has or will take place.  
NA

**Required Signatures:**

**Department/Agency Director:** \_\_\_\_\_



**Date: 9/28/04**

# AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** October 14, 2004

**Agenda Item #:** C-3

**Est. Start Time:** 9:30 AM

**Date Submitted:** 09/30/04

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**Requested Date:** October 14, 2004

**Time Requested:** N/A

**Department:** DBCS

**Division:** Land Use & Trans Program

**Contact/s:** Jon Henriksen, Bridge Program Manager

**Phone:** (503) 988-3757

**Ext.:** 228

**I/O Address:** 446

**Presenters:** Consent Calendar

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**Agenda Title:** Government Non-Expenditure Contract (Non-190 Agreement) 0405020 with the City of Portland, Bureau of Environmental Services, to Allow Work to be Performed on the West Side Combined Sewer Overflow Project Near the Burnside and Broadway Bridges

**NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title.  
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**1. What action are you requesting from the Board? What is the department/agency recommendation?**

The Department recommends approval of this agreement.

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

The City of Portland Bureau of Environmental Services (BES) is currently involved in the West Side Combined Sewer Overflow (CSO) project. The main feature of this project is a large diameter underground tunnel. This tunnel will come close to the underground support systems for the Burnside and Broadway Bridges and will pass under the Morrison and Hawthorne Bridges. The BES design has provisions to prevent damage to these structures.

This agreement defines the following:

- How communications will take place between the County and BES
- Monitoring techniques
- Insurance requirements

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

None

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- ❖ Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.
- ❖ Has this request been made before? When? What was the outcome?

If grant application/notice of intent, explain:

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

4. Explain any legal and/or policy issues.

None

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

The project is managed by the City of Portland. This agreement will protect County assets and will not directly affect the public.

**Required Signatures:**

Department/Agency Director:

*Robert A. Maestre*

Date: 09/30/04

# MULTNOMAH COUNTY CONTRACT APPROVAL FORM

Contract #: 0405020  
 Pre-approved Contract Boilerplate (with County Attorney signature) ☐ Attached ☒ Not Attached  
 Amendment #:

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

Department: Business and Community Services Division: Land Use & Transportation Date: 9/27/04  
 Originator: Jon Henrichsen Phone: 83757 ext 228 Bldg/Rm: 446/Bridge  
 Contact: Cathy Kramer Phone: Ext 22589 Bldg/Rm: 455/Annex  
 Description of Contract: IGA with the City of Portland to allow work to be performed on their West Side Combined Sewer Overflow project near the Burnside and Broadway Bridges.

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

Contractor	City of Portland, BES			Remittance address	
Address	2730 NW Front Avenue			(If different)	
City/State	Portland, OR	Contact:	Patty Nelson	Payment Schedule / Terms	
ZIP Code	97210			<input type="checkbox"/> Lump Sum \$	<input type="checkbox"/> Due on Receipt
Phone	(503) 823-5271 FAX (503) 823-2658			<input type="checkbox"/> Monthly \$	<input type="checkbox"/> Net 30
Employer ID# or SS#	N/A			<input type="checkbox"/> Other \$	<input type="checkbox"/> Other
Contract Effective Date	9/27/2004	Term Date	12/30/2006	<input type="checkbox"/> Requirements Funding Info:	
Amendment Effect Date	New Term Date			Original Requirements Amount	\$
Original Contract Amount	\$			Total Amt of Previous Amendments	\$
Total Amt of Previous Amendments	\$			Requirements Amount Amendment	\$
Amount of Amendment	\$			Total Amount of Requirements	\$
Total Amount of Agreement	\$0				

## REQUIRED SIGNATURES:

Department Manager Robert Macastre DATE 9-30-04  
 Purchasing Manager \_\_\_\_\_ DATE \_\_\_\_\_  
 County Attorney Matthew O. Ryan DATE 10/6/04  
 County Chair Debbie King DATE 10.14.04  
 Sheriff \_\_\_\_\_ DATE \_\_\_\_\_  
 Contract Administration \_\_\_\_\_ DATE \_\_\_\_\_

COMMENTS: WBS 6700GT0016540

APPROVED: MULTNOMAH COUNTY  
 BOARD OF COMMISSIONERS  
 AGENDA # C-3 DATE 10-14-04  
 DEBORAH L. BOGSTAD, BOARD CLERK

# INTERGOVERNMENTAL AGREEMENT

This agreement is entered into by the City of Portland, a municipality of the State of Oregon, through its Bureau of Environmental Services (the City or BES) and Multnomah County Oregon (the County).

## RECITALS

- A. The City of Portland, BES, has designed the West Side Combined Sewer Overflow (CSO) Tunnel, Shafts, Pump Station and Pipeline Project (West Side CSO) to comply with the Amended Stipulated and Final Order (ASFO) issued by the Department of Environmental Quality, requiring the City to reduce combined sewer overflows to the Willamette River;
- B. The West Side CSO facilities are described in the Contract Documents for the project, which include plans, specifications and Geotechnical Baseline Report;
- C. A portion of the West Side CSO project includes a large diameter tunnel which will cross under four (4) bridges or their approaches (alternatively referred to as ramps): Hawthorne, Morrison, Burnside and Broadway bridges;
- D. With respect to the above-named bridges covered by this Agreement, ORS 382.305 et seq. imposes an obligation on the County to "maintain, keep in good condition and repair and operate the bridges and their approaches";
- E. The City of Portland is the owner or road jurisdiction authority for certain property and/or Street Right-of-Way interests under the Hawthorne, Morrison, Burnside and Broadway Bridges;
- F. Consistent with the statutory mandate referenced above, the County maintains and operates the Hawthorne, Morrison, Broadway and Burnside bridges;
- G. The parties agree that it is in the public's interest for the City to implement its West Side CSO Project. The parties also agree that the County is required to maintain, keep in good condition and repair and operate the bridges and their approaches, as mandated under ORS 382.305
- H. Both parties desire to enter into an agreement to protect both parties' interests;
- I. The parties desire to provide for access and work protocols under and around the County bridges to protect bridge structures during construction and operation of the City's facilities;

NOW THEREFORE, the parties agree to the following terms and conditions for construction and operation of the City's West Side CSO Project:



## **I. MULTNOMAH COUNTY**

A. During the time period of construction, the County will allow access as reasonably required for the City and its tunnel construction contractor to install and read settlement monitors on bridge structures (work covered by County Permit No. 59929-32).

B. During the time period of the Broadway Bridge Renovation Project, the County will provide updated schedules to the City identifying when work will take place over City of Portland right-of-way in NW Front Avenue (NW Naito Parkway). The County will cooperate with the City to minimize any impacts to both the WCSO project and the bridge rehabilitation project.

C. The County will provide 24 hour emergency contact, including name and phone number, for use during construction activities.

## **II. CITY OF PORTLAND**

A. Upon request from the County, the City will provide copies of the Contract Documents pertaining to WCSO work under and around the County Bridges and any significant revisions, changes or amendments to those documents.

B. The City will conduct the activities outlined in this Agreement in cooperation with the County and in a manner that will avoid any material disruption to the County's operation, maintenance and management of the Broadway, Burnside, Hawthorne and Morrison Bridges.

C. BES will modify current plans for pre-construction ground improvements at the Broadway and Burnside bridges as follows:

(1) Broadway Bridge: To minimize the potential for interference of the jet grout wall with the foundation of the Broadway Bridge, BES will field-locate existing utilities. Based on the location of the utilities, BES will move the location of the jet grout wall to the east by at least one foot, or more if reasonably possible.

(2) Burnside Bridge: In addition to the jet-grouted zone, BES will install compensation grout pipes prior to tunneling. The pipes will be made ready for immediate use to mitigate any significant ground losses that occur during tunneling.

D. For each County bridge, BES will develop an "Action and Response Plan" for use in the event that movements exceed the Action Level or Maximum Limit. BES will submit the Plan for each bridge to the County for review at least 60 days before tunneling reaches that bridge. Development of the Plans will include the following steps:

- (1) List possible causes of excessive movement, including typical sources of ground loss during soft-ground tunneling.
- (2) For each possible cause of excessive movement, identify possible actions to stop the movement. Also identify resources required for each action, such as written procedures, equipment, material and specialized personnel.

- (3) List possible responses in the event that excessive movement occurs such as; (a) traffic detour plans; (b) inspecting for structural damage; (c) compensation grouting; (d) shoring.
- (4) For each possible cause of excessive movement, state what actions and responses will be taken when movement reaches: (a) Action Level, and (b) Maximum Limit.
- (5) Identify BES personnel who will be responsible for implementing the Action and Response Plans.

E. BES will provide Multnomah County with copies of contractor submittals regarding grouting for ground improvements in accordance with the project specifications cited in Recital B. These submittals will be provided to the County at least 21 days before the start of grouting work at each bridge to give sufficient time for review and comment. The County will forward written comments on the submittals to BES for review within 14 days of the time of receipt.

F. Prior to work under each of the County bridges, including ground improvement work, BES will conduct a pre-construction survey of the portion of the bridge near the CSO tunnel as specified in the Geotechnical Baseline Report cited in Recital B. The surveys will document cracks, movements and other pre-existing signs of distress or damage. After the tunnel is completed under each bridge, BES will re-survey the structure for damage caused by tunneling. Pre- and post-construction survey documentation will include field notes, photographs and/or videotapes. BES will coordinate planning and execution of the surveys with the County. BES will also provide copies of all survey documentation to the County.

G. BES will provide notice to Multnomah County seven days in advance of BES or BES's contractor personnel and equipment working under any of the four County bridges.

H. BES will work with County personnel to coordinate schedules, as necessary to ensure that both agencies can complete their work.

I. BES will monitor movement of the bridge structures during tunnel construction in accordance with the project's Contract Documents. Modification of the movement monitoring schedule may be made during construction, as deemed necessary by BES.

J. At least 60 days before tunneling reaches each bridge, BES will submit to the County a final Settlement Monitoring Plan for that bridge. Each Plan will include the following:

- (1) Monitoring schedule
- (2) Plan for submitting data to County including:
  - (2.1) Format in which data will be transmitted
  - (2.2) Schedule for data transmittals
  - (2.3) Transmittal method (e-mail)
  - (2.4) Addressee at County
- (3) Identification of key personnel including:
  - (3.1) Person at BES (lead "Owner's Representative") with primary responsibility and authority for the monitoring program, including interpretation and distribution of monitoring data
  - (3.2) Other BES personnel with similar responsibilities and authority when lead Owner's Representative is not on duty

- (3.3) Person at County with primary responsibility for tracking BES's monitoring program.
- (3.4) Back-up personnel at County.
- (4) Communication plan between BES and County including:
  - (4.1) Contact list for 24-hour-a-day, seven-day-a-week schedule
  - (4.2) Call procedure with instructions on priority and order of calling during each work shift
  - (4.3) Numbers for office phones, cell phones, home phones and pagers
  - (4.4) Fax numbers
  - (4.5) E-mail addresses

K. During the tunneling activity within an area bounded by a 100 feet distance on either side of the bridge, BES will monitor, evaluate and follow up on bridge movements as follows:

- (1) BES surveyors will check elevations at each bridge column at least once every four hours.
- (2) BES will evaluate the survey data within two hours after each survey is taken. Any actual movements of bridge columns will be compared to the Action Levels and Maximum Limits set forth in the Contract Documents.
- (3) In the event that movement and/or differential movement at a County bridge meets or exceeds either of these levels, BES will:
  - (3.1) Notify the County as soon as possible after the excessive movement is determined;
  - (3.2) Within two hours of the time when the excessive movement is determined, carry out a preliminary inspection of the bridge to look for obvious signs of structural distress. Notify the County immediately if any such signs are observed by calling the County contact person listed in the Settlement Monitoring Plan described in Article J (4) above;
  - (3.3) Within 48 hours of the time when the excessive movement is determined, carry out a detailed inspection of the bridge similar to the pre- and post-construction surveys specified in Article F above;
  - (3.4) Provide written reports on the inspections to the County;
  - (3.5) Keep the County informed of actions and responses planned and underway to prevent further movement and to mitigate effects of the movement that has already occurred.

L. BES agrees that if the City or County discovers circumstances that warrant review (e.g., movement at lesser levels has or will impact the bridge) of the settlement level standards set forth in the Contract Documents, the standards may be subject to change.

M. If tunneling work is stopped in the area of one of the County bridges at any time because of excessive movement at one of the County bridges, BES will:

- (1) Notify the County as soon as possible when tunneling is stopped, and;
- (2) Confer with the County regarding circumstances and conditions for future tunneling.

N. BES will provide and maintain through its Owner Controlled Insurance Program (OCIP) during the life of this Agreement general liability insurance providing bodily injury, personal injury and

property damage coverage with at least a combined single limit of \$2,000,000 each occurrence or claim and an aggregate limit of \$4,000,000. This liability coverage shall also provide: (a) for extended reporting period coverage for claims made within two years after the work or associated work authorized under this Agreement is completed; and (b) for the County, its officers, employees and agents to be named as additional insureds for all work or associated work being authorized under this Agreement.

O. BES will provide and maintain during the life of this Agreement workers compensation insurance for its employees and the employees of its contractor covering statutory liability under the workers compensation laws of the state and employers' liability.

P. BES will provide and maintain through its OCIP during the life of this Agreement excess liability insurance with coverage of at least \$100,000,000. This excess liability coverage will also provide: (a) for extended reporting period coverage for claims made within two years after the work or associated work authorized under this Agreement is completed; and (b) for the County, its officers, employees and agents to be named as additional insureds for all work or associated work being authorized under this Agreement.

Q. During the course of the construction contractor's work in the areas beneath the County bridges, BES will require its contractor to maintain in force and effect automobile liability insurance providing bodily injury and property damage coverage with a combined single limit of at least \$1,000,000 each occurrence or claim, covering all motor vehicles including hired and non-owned.

R. To the extent allowed by the Oregon Constitution and the Oregon Tort Claims Act, the City of Portland agrees to defend, indemnify and hold Multnomah County, its officers, agents and employees, harmless from and against all claims, demands, suits, liabilities, damages or costs including but not limited to attorney fees, arising out of the acts or omissions of the City of Portland, its officers, contractors, agents and employees.

S. This Agreement is between the City and the County and neither creates nor vests any rights or obligations in or to any third party.

T. To the extent authorized by law, the City's indemnity and defend obligations under Section R, above, shall survive the termination of this Agreement.

### **III. MODIFICATION**

This Agreement may be modified by the mutual agreement of both parties in writing by the designated Project Managers.

### **IV. TERM**

This Agreement shall be in effect for the duration of the West Side CSO Project construction, which is expected to be completed by December 30, 2006, and for the two-year warranty period following completion of the Project.

## **V. PROJECT MANAGERS**

The Project Manager for the City of Portland regarding this Agreement is:

**City of Portland, BES**

Patty Nelson  
City of Portland, Bureau of Environmental Services  
2730 NW Front Ave.  
Portland, OR 97210  
Telephone: 503-823-5271  
Fax: 503-823-2658

The Project Manager for Multnomah County regarding this Agreement is:

**Multnomah County**

Ed Wortman or Designee  
Multnomah County Bridge Section  
1403 SE Water Avenue  
Portland, OR 97214-3333  
Telephone: 503-988-3757 ext. 226  
Fax: 503-988-3812

## **VI. NOTIFICATION**

For purposes of notification and coordination during construction, the following people shall be the designated points of contact:

**City of Portland, BES**

Craig Kolell, Assistant Construction Manager  
2730 NW Front Avenue  
Portland, Oregon 97210  
Telephone: 503-823-2230  
Fax: 503-823-2658

**Multnomah County Bridge Section**

Ed Wortman or Designee  
Multnomah County Bridge Section  
1403 SE Water Avenue  
Portland, OR 97214-3333  
Telephone: 503-988-3757 ext. 226  
Fax: 503-988-3812



#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: 14 OCT 04

SUBJECT: DOG ATTACK/ZONING ENFORCEMENT

AGENDA NUMBER OR TOPIC: NON-AGENDA

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

NAME: BOB LEPPER

ADDRESS: 30728 NE LAMPERT RD

CITY/STATE/ZIP: TROUTDALE OR 97060

PHONE: DAYS: 503-695-5276

EVES: \_\_\_\_\_

EMAIL: \_\_\_\_\_

FAX: \_\_\_\_\_

SPECIFIC ISSUE: \_\_\_\_\_

WRITTEN TESTIMONY: YES

**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.

14 October 2004

Multnomah County Board of Commissioners  
Portland, OR

RE: Dog attacks/zoning enforcement

About 4 months ago as I was walking back from my mailbox in the public street carrying my newspaper, 2 dogs that were running loose attacked me. I was able to fend them off with the newspaper long enough to get to my gate and close it. Last Friday as I was outside in my driveway doing some pruning, these 2 same dogs, again running loose, attempted to attack me and my 2 dogs who were with me behind my closed and latched gate. These dogs, aggressively barking, snarling and baring their teeth, were hurling themselves at the gate with such force that I was afraid they would spring the gate open or jump over it. I went down to Animal Control and made a complaint with the receptionist at the front counter since I was told there were no animal control officers available. I was told to call an officer (Lindi Mantifel) Monday. After calling twice on Monday, the officer finally called back and I asked what my rights were in cases such as this and how this could be prevented in the future. I was told to carry an umbrella!, and referred to another officer (officer Lucky) who I called Tuesday. I have yet to receive a call back from officer Lucky.

Several items need to be mentioned at this point:

1. The apparent owner (living at 30645 NE Lampert Road) of these 2 dogs was standing about 30 feet away during the second attack and did not attempt to physically restrain these dogs until after I was able to back them off.
2. According to Animal Control records, I was told there are apparently no licenses for these 2 dogs at this address, nor any licenses for the other animals at this address which require a license by Multnomah County code.
3. The apparent owner of these 2 dogs lives in a trailer on this property zoned for a single dwelling unit. This trailer is being used as a second dwelling unit and is not legally established.
4. Multnomah County Planning Division has known about this trailer, used a second dwelling unit, for over 3 years and has done no enforcement action regarding this trailer.
5. Even though there are 2 other investigated and proven unresolved zoning violations on this property, which were beyond any appeal period and had been sitting gathering dust for years, no penalties or fines have been imposed (according to Kim Peoples) even though Multnomah County could have assessed over \$530,000 for these proven, unresolved violations.
6. Approximately 5 months ago this board adopted new enforcement codes which still have not been enforced on this property.

I don't mind my tax dollars being used for the Animal Control Division, one of my dogs was even adopted from the animal shelter. I've given the shelter dog food when they have issued a public plea. But I do mind my tax dollars being used to support bureaucrats who don't follow the law, such as some planners at the Planning Division. These 2 dog attacks would not have occurred if enforcement actions had been promptly done in accordance with the codes that you have passed. It is not a matter of funding; it is a matter of priorities.

This board owes Multnomah County citizens an explanation how it can pick and chose which laws to follow and which laws to ignore and why this board feels it has the right to do so. Residents of Multnomah County and visitors to the Columbia River Gorge National Scenic Area in my neighborhood should not be compelled to stay in their cars or carry an umbrella.

Thank you.

Bob Leipper    30728 NE Lampert Road, Troutdale    503-695-5276



#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:

10/14/04

SUBJECT:

Montavilla Library

AGENDA NUMBER OR TOPIC:

Getting to Yes

FOR: ☒

AGAINST: ☐

THE ABOVE AGENDA ITEM

NAME:

SANDRA MCDANIEL

ADDRESS:

1435 NE 73

CITY/STATE/ZIP:

Portland

OR

97213

PHONE:

DAYS: 232 8304

EVES:

257-3346

EMAIL:

FAX:

236 0636

SPECIFIC ISSUE:

turning the bldg back to  
the Community as the 1st

WRITTEN TESTIMONY:

Volunteer run Library -  
to follow.

**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.

**Testimony of Sandra McDaniel**  
**Chair of Montavilla Neighborhood Association**  
**Thursday, October 14, 2004**

Good morning, Chair Linn & Commissioners.

I feel disappointed. I expected the keys to the Montavilla Library and a celebration, Monday, October 11th.

At the Montavilla Neighborhood Association Meeting June 14th, 67 people ~~were~~ showed up in support of Montavilla Library's re-opening the first volunteer-run library in Multnomah County. <sup>was</sup>

That night, Commissioner Naito agreed that at the September meeting, she would judge our progress. She had set benchmarks for "Montavilla Library Getting to Yes" (GTY). Yet, on Monday, September 13th, Commissioner Naito failed to attend the neighborhood association meeting; and failed to send any County representative.

The project manager gave a complete briefing on the Business Plan, Feasibility Study and answered questions. September 13th was established by Commissioner Naito as a deadline for Montavilla Library supporters. Yet she failed to attend. Her failure means that she missed seeing the groundswell of public support. She missed being informed about the Business Plan. Her actions created a major roadblock in the Board's ability to vote for Montavilla Library in time for the October 11th Celebration.

I feel worried. When Commissioner Naito sets up deadlines and then misses her deadlines, there is no way to "Get to Yes." The Commissioner moves the finish line every time we met the goals.

First Commissioner Naito has defined goals. Then, she puts roadblocks in the way of progress. When we succeed, Commissioner Naito changes her mind.

On Thursday, September 16th, the entire Board received the complete briefing: the Business Plan, the Feasibility Study, 233 individual pieces of written testimony in support of Montavilla Library. Several of the Soropomist International of Portland-East members gave testimony about their role as the temporary fiscal agent of Montavilla Library.

After the September 16 Regular Multnomah County Board Meeting, Commissioner Naito refused to schedule an appointment "any time, any place, at her convenience" with the Montavilla Neighborhood Association. The purpose was to resolve any questions that the Multnomah County Board might have had about Montavilla Library Incorporated in time for the building's transfer to be done before Monday, October 11th Open House.

I feel that you have been dishonest with us. Dates have been shifted. The dates for completion are after the election. Roadblocks were created by Commissioner Naito's

unwillingness to give us timely feedback or even schedule an appointment or attend meetings she required. It looks like the Board's intent is to stall until after the election. You realize that saying "no" to Montavilla Library, the first volunteer run library in Multnomah County Library will cost votes for the I-Tax and for Commissioner Naito.

Montavilla Library is about neighbors providing community services to operate a volunteer-library without government or County operating funds.

#3

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: 10/14/04  
SUBJECT: Montavilla Library

AGENDA NUMBER OR TOPIC: \_\_\_\_\_

FOR: \_\_\_\_\_ AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM  
NAME: Berniece Reed

ADDRESS: \_\_\_\_\_

CITY/STATE/ZIP: \_\_\_\_\_

PHONE: \_\_\_\_\_ DAYS: \_\_\_\_\_ EVES: \_\_\_\_\_

EMAIL: \_\_\_\_\_ FAX: \_\_\_\_\_

SPECIFIC ISSUE: \_\_\_\_\_

WRITTEN TESTIMONY: \_\_\_\_\_

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

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

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

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

#4

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: 10/14/04

SUBJECT: Montavilla Library

AGENDA NUMBER OR TOPIC:

FOR: X AGAINST: THE ABOVE AGENDA ITEM

NAME: Keith Daly

ADDRESS: 28 SE 78th Ave

CITY/STATE/ZIP: Portland OR 97215

PHONE: 503 890 4370 DAYS: EVES:

EMAIL: keithdaly@gmail.com FAX:

SPECIFIC ISSUE: Neighborhood access to libraries.

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.

#5

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: 10.14.04

SUBJECT: Montavilla Library

AGENDA NUMBER OR TOPIC: \_\_\_\_\_

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

NAME: Suzan Reed

ADDRESS: 506 SE 72nd Ave

CITY/STATE/ZIP: Portland OR 97215

PHONE: \_\_\_\_\_ DAYS: 503.252.5537 EVES: \_\_\_\_\_

EMAIL: SuzanChevanet.com FAX: \_\_\_\_\_

SPECIFIC ISSUE: Library opening

WRITTEN TESTIMONY: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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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.



# OFFICE OF MULTNOMAH COUNTY ATTORNEY

AGNES SOWLE  
*County Attorney*

JOHN S. THOMAS  
*Deputy County Attorney*

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

FAX 503.988.3377  
503.988.3138

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

TO: Chair Diane Linn

CC: Commissioner Maria Rojo de Steffey  
Commissioner Serena Cruz  
Commissioner Lisa Naito  
Commissioner Lonnie Roberts

FROM: Agnes Sowle

DATE: October 15, 2004

---

The public testimony of Sandra McDaniel given at the Board Meeting yesterday included a suggestion that if the County acted quickly to give the property located at 211 SE 80<sup>th</sup> Avenue to a non-profit organization to be formed as Montavilla Library, it could influence votes against the ITAX repeal and for the re-election of Commissioner Naito. Specifically, Ms. McDaniel stated the following:

It looks like the Board's intent is to stall until after the election. You realize that by saying no to Montavilla Library, the first voluntary library in Multnomah County, will cost votes for the ITAX and for Commissioner Naito.

Because Ms. McDaniel's statement could be understood to offer votes in exchange for the property, it would be unwise for the Board to take any further action regarding this property until after the election on November 2. Clearly it would be unethical for the County to give away County resources to secure votes for an issue or a candidate. However, even if that was not Ms. McDaniel's intent, any action taken by the Board before the election could easily be perceived to be in response to her statement.

## AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** October 14, 2004

**Agenda Item #:** R-1

**Est. Start Time:** 9:30 AM

**Date Submitted:** 09/29/04

**Requested Date:** October 14, 2004

**Time Requested:** 15 minutes

**Department:** Non- Departmental

**Division:** County Commissioner

**Contact/s:** Matthew Lashua, District 1  
Paul Iarrabino, ADS

**Phone:** (503) 988-5220      **Ext.:** 85220      **I/O Address:** 503/600  
(503) 988-3620      24030

**Presenters:** Maria Rojo de Steffey  
Claire Ochs, Community Health Nurse, Adult Protective Services  
Maggie White, Community Member

**Agenda Title:** PROCLAMATION Proclaiming October 14, 2004 Vulnerable Adult Abuse Awareness Day in Multnomah County, Oregon

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

1. **What action are you requesting from the Board? What is the department/agency recommendation?**  
Approval
2. **Please provide sufficient background information for the Board and the public to understand this issue.**  
Proclamation to recognize Vulnerable Adult Abuse Awareness Day in Multnomah County
3. **Explain the fiscal impact (current year and ongoing).**  
None

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



If a budget modification, explain:

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

NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)

If a contingency request, explain:

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

If grant application/notice of intent, explain:

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

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

None

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

**Required Signatures:**

Department/Agency Director: \_\_\_\_\_



Date: 09/29/04

Budget Analyst

By: \_\_\_\_\_

Date:

Dept/Countywide HR

By: \_\_\_\_\_

Date:

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

PROCLAMATION NO. \_\_\_\_\_

Proclaiming October 14, 2004 Vulnerable Adult Abuse Awareness Day in Multnomah County, Oregon

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

- a) October 14, 2004 is Vulnerable Adult Abuse Awareness Day.
- b) All Multnomah County citizens deserve to live with dignity, respect, safety and peace of mind at all stages of life.
- c) Adults who are vulnerable because of age or disability are at great risk of physical, sexual or emotional abuse or neglect, abandonment, financial exploitation, and self-neglect.
- d) The number of reports of abuse of the elderly and persons with disabilities continue to increase every year.
- e) Multnomah County saw a 16% increase in referrals from the previous year, while experiencing a reduction in staff due to budget cuts.
- f) It is imperative for all to recognize signs and symptoms of abuse crimes against vulnerable adults.
- g) Due to the complexity and diversity of abuse and the needs of victims, coordination and collaboration between disciplines and agencies is essential to coordinated service delivery.
- h) Multnomah County has fostered the establishment of multi-disciplinary to assist in prosecution against perpetrators who commit abuse crimes against vulnerable adults.
- i) Safety for older adults and persons with disabilities is our priority.
- j) We come together annually to state and rededicate ourselves as friends and allies to vulnerable adults, and recommit ourselves to remain ever vigilant in our protection of older adults and persons with disabilities.

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

October 14, 2004 is Vulnerable Adult Abuse Awareness Day in Multnomah County, Oregon.

ADOPTED this 14th day of October, 2004.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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

\_\_\_\_\_  
Maria Rojo de Steffey,  
Commissioner District 1

\_\_\_\_\_  
Serena Cruz,  
Commissioner District 2

\_\_\_\_\_  
Lisa Naito,  
Commissioner District 3

\_\_\_\_\_  
Lonnie Roberts,  
Commissioner District 4

Vulnerable Adult Abuse Awareness Day  
10/14/04

	Min's
Commissioner Maria Rojo de Steffey introduces proclamation	2
Claire Ochs Community Health Nurse Adult Protective Services, Multi-Disciplinary Team	6
Reading of Proclamation Maggie White Community Member	2
Board Discussion/Vote	2

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**PROCLAMATION NO. \_\_\_\_\_**

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

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- d) Multnomah County saw a 16% increase in referrals from the previous year, while experiencing a reduction in staff due to budget cuts.
- e) It is imperative for all to recognize signs and symptoms of abuse crimes against vulnerable adults.
- f) Due to the complexity and diversity of abuse and the needs of victims, coordination and collaboration between disciplines and agencies is essential to coordinated service delivery.
- g) Multnomah County has fostered the establishment of multi-disciplinary teams to assist in prosecution against perpetrators who commit abuse crimes against vulnerable adults.
- h) Safety for older adults and persons with disabilities is our priority.
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**The Multnomah County Board of Commissioners Proclaims:**

October 14, 2004 is Vulnerable Adult Abuse Awareness Day in Multnomah County, Oregon.

ADOPTED this 14th day of October, 2004.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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

\_\_\_\_\_  
Maria Rojo de Steffey,  
Commissioner District 1

\_\_\_\_\_  
Serena Cruz,  
Commissioner District 2

\_\_\_\_\_  
Lisa Naito,  
Commissioner District 3

\_\_\_\_\_  
Lonnie Roberts,  
Commissioner District 4

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**PROCLAMATION NO. 04-146**

Proclaiming October 14, 2004 Vulnerable Adult Abuse Awareness Day in Multnomah County, Oregon

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

- a) All Multnomah County citizens deserve to live with dignity, respect, safety, and peace of mind at every stage of life.
- b) Adults who are vulnerable because of age or disability are at great risk of physical, sexual or emotional abuse or neglect, abandonment, financial exploitation, and self-neglect.
- c) The number of reports of abuse of the elderly and persons with disabilities continue to increase every year.
- d) Multnomah County saw a 16% increase in referrals from the previous year, while experiencing a reduction in staff due to budget cuts.
- e) It is imperative for all to recognize signs and symptoms of abuse crimes against vulnerable adults.
- f) Due to the complexity and diversity of abuse and the needs of victims, coordination and collaboration between disciplines and agencies is essential to coordinated service delivery.
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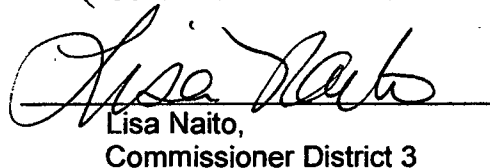
**The Multnomah County Board of Commissioners Proclaims:**

October 14, 2004 is Vulnerable Adult Abuse Awareness Day in Multnomah County, Oregon.

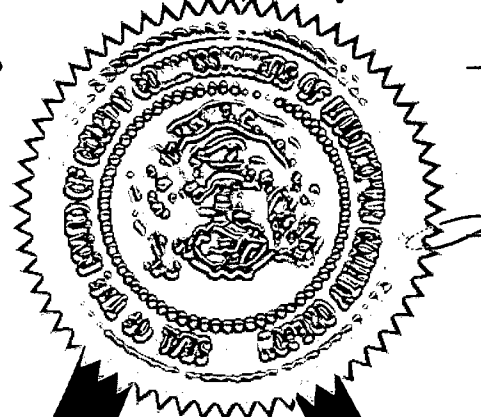
ADOPTED this 14th day of October, 2004.

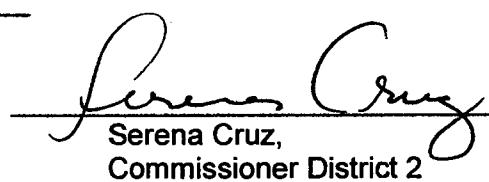
BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

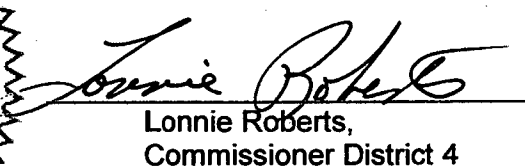
  
Maria Rojo de Steffey,  
Commissioner District 1

  
Lisa Naito,  
Commissioner District 3

  
Diane M. Linn, County Chair



  
Serena Cruz,  
Commissioner District 2

  
Lonnie Roberts,  
Commissioner District 4

## AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** October 14, 2004

**Agenda Item #:** R-2

**Est. Start Time:** 9:45 AM

**Date Submitted:** 10/06/04

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**Requested Date:** October 14, 2004

**Time Requested:** 10 minutes

**Department:** Non-Departmental

**Division:** Commissioner Cruz, District 2

**Contact/s:** Kylie Meiner, MPH

**Phone:** 503-988-3663

**Ext.:** 29356

**I/O Address:** 160/9

**Presenters:** Commissioner Cruz, Kylie Meiner, Dr. Brett Sheppard

---

**Agenda Title:** ORDINANCE Amending MCC Chapter 21, Health, Relating to Hospital Outdoor No Smoking Policy

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

---

1. **What action are you requesting from the Board? What is the department/agency recommendation?** For MCC Chapter 21, Health, to be amended to require hospitals to adopt no-smoking policies for outdoor areas.
2. **Please provide sufficient background information for the Board and the public to understand this issue.** All hospitals in Multnomah County currently have policies that prohibit smoking near entryways, windows that open, and air intake vents. However, they lack the authority to prohibit smoking on public property, such as sidewalks, that are adjacent to hospital property. This amendment will give hospitals the authority to prohibit smoking on public property so that they can better protect their patients and visitors from secondhand smoke. This amendment will set a minimum standard of no-smoking within 20 feet of entryways, windows, and vents, while allowing hospitals to prohibit smoking at any distance greater than 20 feet that they determine is necessary to prevent exposure to secondhand smoke. Hospitals will be allowed to create designated outdoor smoking areas, as long as they meet the 20 feet requirement. Hospitals will be required to have a written enforcement plan for the policy, but the county will not monitor the enforcement

of the policy or respond to complaints. Hospitals will have sole responsibility for all enforcement activities.

3. **Explain the fiscal impact (current year and ongoing). None foreseen.**

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

**If a budget modification, explain:**

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

**NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)**

**If a contingency request, explain:**

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

**If grant application/notice of intent, explain:**

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

4. **Explain any legal and/or policy issues involved.** The City of Portland and the City of Gresham must also adopt amendments to approve this change to MCC Chapter 21, Health, to require hospitals to adopt no-smoking policies for outdoor areas. Both cities have indicated that they will approve the amendments.
5. **Explain any citizen and/or other government participation that has or will take place.** The original request for this amendment came from Dr. Brett Sheppard at Oregon Health & Sciences University, and has the support of the OHSU administration, including the Associate Vice President of Facilities Management & Construction. The Tobacco Prevention Program Coordinator (Health Dept.) and the Assistant to Commissioner Cruz have consulted with representatives from OHSU, Adventist Medical

Center, Legacy Health System, Mt. Hood Medical Center and Providence Portland and have taken their concerns into account when drafting this ordinance. Representatives from each of the hospitals have been invited to this Board Meeting to provide testimony.

**Required Signatures:**

**Department/Agency Director:** 

**Date:** 10/06/04

**Budget Analyst**

**By:** \_\_\_\_\_

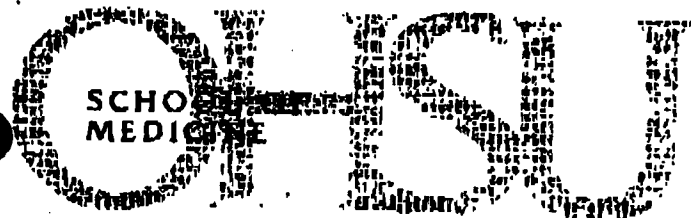
**Date:**

**Dept/Countywide HR**

**By:** \_\_\_\_\_

**Date:**





R-2

OREGON HEALTH  
SCIENCES UNIVERSITY  
DIVISION OF GENERAL SURGERY  
1181 N.W. SAM JACKSON PARK RD.  
MAIL CODE 1223A  
PORTLAND, OR 97239-3098  
TEL 503-494-8372  
FAX 503-494-8884

September 15, 2003

Commissioner Serena Cruz  
Multnomah Building, Sixth Floor  
501 SE Hawthorne Street  
Portland, OR 97214

Re: No Smoking Public Zone Outside Hospital Entrances and Corridors;  
Amendments to MCC Chapter 21

Dear Commissioner Cruz:

First and foremost, thank you for your leadership in this important action to protect hospital patients from the deleterious effects of second-hand smoke in and around hospital facilities. OHSU strongly supports the amendments to Multnomah County Code Chapter 21, which would permit hospitals to prohibit smoking in outdoor public areas surrounding hospital facilities.

We at OHSU have a duty to protect the well being of our patients. The amendments to Chapter 21 are the tools we need to ensure a safe and healthy environment for patients entering and exiting our hospital facilities.

Scientific evidence in support of this ordinance is unequivocal. In numerous studies, scientists and researchers concluded that second-hand smoke is a significant risk factor in a multitude of lung-related diseases including asthma and bronchitis in adults (Chest, 2002). Second-hand smoke is a significant risk factor for the development of lung cancer. Sixteen studies have documented an increased risk of lung cancer from second-hand smoke in the workplace (Aust N. Z., J. Public Health, 2001/Int. J. Cancer, 2002/British Medical J. 1997). Conservative estimates suggest second-hand smoke is responsible for 35,000 to 40,000 excess cardiac deaths per year. The number may be as high as 65,000 excess deaths per year. Research has demonstrated that even transient exposure in healthy young adults significantly decreases blood flow in the heart. (New England J. of Medicine 1999/J. of AMA 1992, 2001/Heart Vessels 2002.) In addition to these lung and cardiac-related complications, there is a developing evidentiary link that exposure to second-hand smoke increases the risk of breast cancer and the risk of stroke in adults (Am. J. Epidemiology 1996, 2002/European J. of Epidemiology 2002/Stroke 2002).

OHSU also treats a large number of younger patients, including children. Research demonstrates that smoking outside remains harmful to children because they still absorb high levels of nicotine metabolites (Lancet 2002). There is also developing evidence linking exposure to second-hand smoke with recurring ear infections in children (Arch Otolaryngol Head and Neck Surg. 1999).

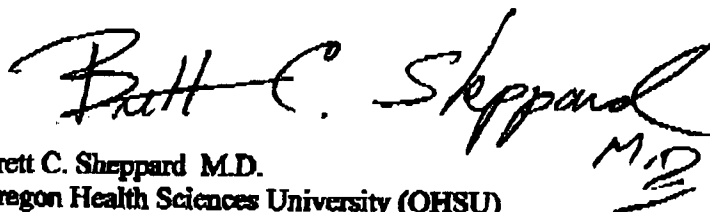
Here at OHSU, several of the entrances and exits from our hospital and clinic facilities are adjacent to public sidewalks or other public areas where people congregate to smoke. I have personally observed patients on oxygen off-loaded from ambulances surrounded by people smoking. We have seen new babies in their mother's arms waiting outside to go home surrounded by smokers. I have seen our children with cystic fibrosis and our cardiac and lung transplant patients pass through a fog of smoke on the way to follow-up appointments.

We must protect patients and members of the public by allowing hospital facilities to prohibit smoking in public areas proximate to hospital entrances, exits and access corridors.

We concur with the amended language of MCC 21.520, which requires hospitals to adopt policies prohibiting smoking in outdoor public areas that are within a distance of 20 feet or more from building entrances or exits. At OHSU, we believe 20 feet is the minimum distance necessary to protect our compromised patients. In all likelihood, under the amendment, we will establish a greater distance of at least 50 feet, wherein smoking is prohibited in public areas adjacent to hospital entrance corridors. While MCC 21.520(a)(1) establishes a minimum distance of 20 feet, subsection (a)(2) requires posting of no smoking signs in outdoor public areas within a distance of 20 feet from building entrances and exits. We propose an amendment to Subsection (a)(2) that requires no smoking signage within a distance of at least 20 feet from building entrances. This amendment is consistent with Subsection (a)(1), which establishes a minimum no smoking distance of 20 feet for outdoor public areas adjacent to hospital facilities.

In closing, we appreciate Multnomah County's leadership in addressing this threat to human health. We are certain that by creating a safer and healthier environment for our patients, the County will greatly enhance the ability of OHSU to protect the overall health of our patients.

Best regards,



Brett C. Sheppard M.D.  
Oregon Health Sciences University (OHSU)  
Professor and Vice-Chairman of Surgery  
Division of General Surgery Mail Code L223A  
3181 SW Sam Jackson Park Road  
Portland, Oregon. 97239-3098  
Phone (503) 494-8372 Fax (503) 494-8884

cc: Diane Linn, Chair  
Members of Multnomah County  
Board of Commissioners

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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

Amending MCC Chapter 21, Health, Relating to Hospital Outdoor No Smoking Policy

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

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

- a. Individual cigarettes are point sources of outdoor air pollution; smoking in groups is an area source of outdoor air pollution.
- b. Outdoor exposure to second-hand tobacco smoke causes impaired breathing, asthma attacks, headache, nausea, and other symptoms in nonsmokers.
- c. People with chronic and acute respiratory diseases and other medical conditions, (i.e., hospital patients) are particularly vulnerable to the health hazards of secondhand smoke.
- d. There is a scientific consensus that outdoor sources of tobacco smoke should be kept at least 20 feet away from entrances, operable windows, and air intake vents to protect building occupants from the carcinogenic particulate matter found in outdoor tobacco smoke.
- e. State law does not currently regulate smoking in areas outside an enclosed area where smoking is prohibited.
- f. Multnomah County Home Rule Charter Chapter 2.10 grants the county authority over matters of county concern.
- g. The Board of County Commissioners declares that this ordinance is to protect the public health and welfare by requiring hospitals to prohibit smoking in certain outdoor areas that are adjacent to hospital buildings.
- h. This ordinance will be submitted to the Portland City Council to obtain its consent to application of this ordinance within the city limits, in accordance with ORS 203.040.

**Multnomah County Ordains as follows:**

**Section 1. § 21.500\* is amended to read as follows**

**21.500\* SMOKE-FREE WORK AND PUBLIC PLACES**

**Section 2. § 21.501 is renumbered and amended as follows:**

**21.501-510 Definitions.**

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

**BILLIARD PARLOR.** An establishment in which income is primarily derived from pool/billiard table rental and other pool/billiard related sales and where the sale of other products or services is secondary.

**BUSINESS.** Any sole proprietorship, partnership, joint venture, corporation, or other business entity, including retail establishments where goods or services are sold, as well as professional corporations and other entities where professional services are delivered.

**EMPLOYEE.** Any person who is employed by any employer in the consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services to a non-profit entity.

**EMPLOYER.** Any person or entity who employs the services of one or more individuals.

**ENCLOSED AREA.** All space between a floor and a ceiling that is enclosed on all sides by solid walls or windows (exclusive of door or passageways) that extend from the floor to the ceiling, including all space therein screened by partitions that do not extend to the ceiling or are not solid, such as "office landscaping" or similar structures. Enclosed areas do not include breakrooms designated for smoking (smoking room) by employers if the following conditions are met:

1. The smoking room is not accessible to minors.
2. Air from the smoking room is exhausted directly to the outside by an exhaust fan and not recirculated to other parts of the building.
3. The smoking room is in compliance with ventilation standards established by the Department of Health by administrative rule.
4. The smoking room is located in a non-work area where no one, as part of his or her work responsibilities, is required to enter. For purposes of this paragraph, "work responsibilities" does not include custodial or maintenance work carried out in the smoking room when it is unoccupied.
5. There are sufficient nonsmoking breakrooms to accommodate nonsmokers.

**HOSPITAL.** Any facility that meets the definition of "Hospital" in ORS 442.015.

**OUTDOOR PUBLIC AREA.** Any public area immediately adjacent to a Hospital building or buildings, including but not limited to sidewalks, walkways, seating areas and courtyards.

**PLACE OF EMPLOYMENT.** Any enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and rest rooms, conference and class rooms, cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a child care facility as defined in ORS 657A.250, an adult day care facility as defined in ORS 410.490 or a health care facility as defined in ORS 442.015.

**RETAIL TOBACCO STORE.** A retail store utilized primarily for the sale of tobacco products and accessories and where the sale of other products is secondary.

**SMOKING.** Any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, weed, plant, or other tobacco-like product or substances in any manner or in any form.

**TOBACCO PRODUCT.** Any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco or any other form of tobacco which may be utilized for smoking, inhalation, or other means of ingestion.

**TRUCK STOP.** A facility that provides all of the following: fuel service for vehicles up to ninety feet in length; off-street parking for trucks and trailers; a twenty-four hour restaurant; and driver support services, such as showers, laundry, and truck supplies.

**Section 3. § 21.502 is renumbered and amended as follows:**

**21.502-515 Smoking Prohibited in Places of Employment.**

Every employer shall provide a place of employment free of tobacco smoke for all employees.

**Section 4. A new § 21.520 is added to read as follows**

**21.520 Hospital Outdoor No Smoking Policy.**

(A) Hospitals are required to adopt policies prohibiting smoking in outdoor public areas. These policies must meet the following minimum guidelines:

(1) Prohibits smoking within at least 20 feet of building entrances and exits, air intake vents, and windows that are capable of opening to the outside

(2) Requires posting of signs that include the international no smoking symbol and the words "no smoking" in outdoor public areas where smoking is prohibited.

(3) Includes a formal mechanism for the hospital to enforce the policy.

(B) Hospitals may adopt policies allowing smoking in designated outdoor smoking areas as long as they are at least 20 feet away from building entrances and exits, air intake vents, and windows that are capable of opening to the outside.

**Section 5. § 21.503 is renumbered to 21.525 as follows:**

**21.503-525 Places Where Smoking Is Not Regulated.**

Notwithstanding any other provision of this section to the contrary, the following areas shall not be subject to any smoking restrictions contained within this subchapter:

(A) Private residences, unless the private residence is used as a child care facility as defined in ORS 657A.250, an adult day care facility as defined in ORS 410.490 or a health care facility as defined in ORS 442.015;

(B) Rented motel or hotel rooms that are designated in some manner as smoking-allowed

rooms by the owners of the establishment renting the rooms;

(C) Private rooms rented for an occupancy that exceeds one month and that are not located in a private residence used as a child care, adult day care or health facility;

(D) Any facility or facility area licensed by the Oregon Liquor Control Commission to serve alcohol by the drink for consumption on the premises that is posted to prohibit the presence of minors at all times;

(E) Any facility or facility area licensed by the Oregon Liquor Control Commission to serve alcohol by the drink for consumption on the premises that is posted to prohibit the presence of minors during some hours, during those hours that minors are prohibited;

(F) Bingo operations licensed pursuant to ORS 464.250 et seq. and race courses operated by a licensee licensed under ORS chapter 462;

(G) Retail tobacco stores;

(H) Truck stops; and

(I) Billiard parlors.

**Section 6. § 21.504 is renumbered to 21.530 as follows:**

**21.504-530 Posting "No Smoking" Signs.**

"No smoking" signs or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a circle with a bar across the cigarette) shall be clearly, sufficiently, and conspicuously posted in every building or other area where smoking is prohibited by this subchapter, by the owner, manager, or other person having control of such building or other area, including private residences used as a child care, adult day care or health care facility.

**Section 7. § 21.505 is renumbered to 21.535 as follows:**

**21.505-535 Other Violations.**

It shall be a violation of this subchapter for every day any person, who owns, manages, operates or otherwise controls the use of any premises, subject to regulation under §§ 21.500 et seq., fails to comply with any provisions therein. Each day shall be a separate violation.

**Section 8. § 21.506 is renumbered to 21.540 and amended as follows:**

**21.506-540 Smoking In Workplace Prohibited.**

It shall be a violation of §§ 21.500 et seq. for any person to smoke in any area where smoking in the workplace is prohibited by the provisions of §§ 21.500 et seq.

**Section 9. § 21.507 is renumbered to 21.545 as follows:**

**21.507-545 Other Laws.**

This subchapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

FIRST READING:

\_\_\_\_\_  
October 14, 2004

SECOND READING AND ADOPTION:

\_\_\_\_\_  
October 21, 2004

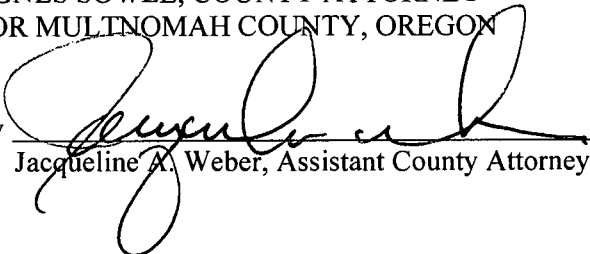
BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By

  
\_\_\_\_\_  
Jacqueline A. Weber, Assistant County Attorney

## AGENDA PLACEMENT REQUEST

BUD MOD #:

**Board Clerk Use Only:**

**Meeting Date: October 14, 2004**

**Agenda Item #: R-3**

**Est. Start Time: 9:55 AM**

**Date Submitted: 09/26/04**

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**Requested Date: 10/14/04**

**Time Requested: 5 minutes**

**Department: DBCS**

**Division: FPM**

**Contact/s: Debra Crawford, Michael Sublett, Doug Butler**

**Phone: 503-988-4206**

**Ext.: 84206**

**I/O Address: 274/FM**

**Presenters: Debra Crawford, Doug Butler**

---

**Agenda Title: RESOLUTION Declaring Property Located within Six County Buildings to be Surplus and Approving a Real Property Lease for Automated Teller Machine Sites to Point West Credit Union**

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

---

- 1. What action are you requesting from the Board? What is the department/agency recommendation?** The Department of Business and Community Services requests the Board declare the space currently occupied by the Point West Credit Union Automated Teller Machines (ATMs) in six County building locations (Multnomah County Courthouse, Justice Center, Gladys McCoy Building, Juvenile Justice Center, Penumbra Kelly Building, and Multnomah Building) to be surplus at this time, and to review the lease agreement and the resolution approving renewal of the lease with Point West Credit Union, and authorize the Chair to sign the lease on behalf of the County and to execute amendments to the lease without further Board action.

The Department of Business and Community Services, 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.** Multnomah County Facilities and Property Management has determined that there is not a current use for the spaces occupied by the Point West ATMs located in the following buildings: Multnomah County Courthouse, Justice Center,



Gladys McCoy Building, Juvenile Justice Center, Penumbra Kelly Building, and the Multnomah Building). Point West Credit Union installed the ATMs at those locations with County permission and has had an agreement for exclusive rights to the locations since 1992. Two of the original eight ATMs were removed by PointWest in 2001 due to lack of use to be economically feasible. The County and Point West Credit Union have agreed to create a new lease for the six ATMs currently in County buildings. The new agreement is for a three (3) year term with one (1) option for an additional one (1) year term to begin upon expiration of the initial term. The new agreement ties the lease term to the County fiscal year, contains an escalation clause on the base rent if the option for an additional term is exercised, and the County Attorney has expanded the lease clauses.

3. **Explain the fiscal impact (current year and ongoing).** The five-year agreement with Point West Credit Union, which commenced June 30, 1999, provided for 8 ATM locations and fixed total payments of \$5,500 per year; an average of \$687.50 per ATM. For the new agreement, the annual base rent payments will be increased to \$800 for each ATM in a County building, for a total of \$4,800 per year effective July 1, 2004 through June 30, 2007. PointWest has a credit from the previous agreement in the amount of \$3,250 which will be applied toward the annual rent for fiscal year 2005. Rent for fiscal years 2006, and 2007 will be \$4,800/year. If Point West Credit Union exercises their option to renew for an additional one year term, the rent will be based upon rent paid for the initial term plus the increase in the CPI-Portland index during the preceding term.

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

**If a budget modification, explain:, N/A**

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

**NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)**

**If a contingency request, explain: N/A**

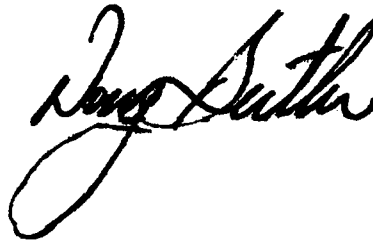
- ❖ **Why was the expenditure not included in the annual budget process? N/A**
- ❖ **What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure? N/A**
- ❖ **Why are no other department/agency fund sources available? N/A**
- ❖ **Describe any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

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

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

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. Facilities & Property Management (FPM) has involved the building and department managers regarding identification of space and feasibility for each of the six ATM location sites. To determine comparable market rents, FPM contacted two commercial banking institutions for information regarding fee structure for ATMs based upon similar transactions and locations. FPM worked closely with the Point West Credit Union President and Accounting Operations Manager, and the County Attorney to negotiate the new agreement.

**Required Signatures:**



Department/Agency Director: \_\_\_\_\_

Date: 09/14/04

Budget Analyst



By: \_\_\_\_\_

Date: 09/16/04

Dept/Countywide HR

By: Not Applicable

Date:

**BOGSTAD Deborah L**

**From:** CRAWFORD Debra D.  
**Sent:** Tuesday, September 14, 2004 11:24 AM  
**To:** BOGSTAD Deborah L  
**Cc:** HAY Ching L; RYAN Matthew O; YANTIS Wanda; BUTLER Douglas E; NAITO Terri W; SUBLETT Michael A  
**Subject:** R-32 Point West Credit Union ATM lease-BCC agenda placement

**Importance:** High

Good Morning, Deb.

I would like to place the attached Point West Credit Union lease on the agenda for October 14th. As Wanda will not be available on that date, we will ask Doug to represent FPM management for the presentation. Our new PM Specialist Senior, Michael Sublett will also be attending.



R-32 APR    R-32 Resolution R-32 Point West  
L-Point West ATPointWest ATMs..Lease Final.do...

Matt Ryan reviewed & approved the lease document format and resolution. I'm taking original lease docs to Point West for signature today and they will return them by Sept 30th, so I can have Matt sign them before forwarding to you. We have requested Matt's attendance at the BCC meeting on Oct 14th related to this lease.

I'm copying Ching Hay as well so he can review the APR. PointWest has had a previous lease with the County for their ATMs, and we would like to continue that positive relationship. I'll bring Ching a signed original he can forward to you by the Sept 20th deadline.

**To Terri Naito,**

I'm copying this to you, and we would like to request attendance at the October 4th Board staff meeting to discuss any issues related to this lease. Please advise if we can provide you with any other information.

Thank you for your assistance.

*Debra Crawford  
Property Management Specialist  
Multnomah County  
Facilities & Property Management  
(503) 988-4206  
FAX (503) 988-5082*

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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

Declaring Property Located Within Six County Buildings To Be Surplus And Approving  
A Real Property Lease for Automated Teller Machine Sites To Point West Credit Union.

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

- a. The property sites are located within the following County owned facilities:  
Multnomah County Courthouse, Justice Center, Gladys McCoy Building, Juvenile  
Justice Center, Penumbra Kelly Building, and Multnomah Building, (Collectively  
referred to as the "Property") and as more particularly identified in the proposed  
lease; is, at this time, surplus to any County use.
- b. The attached lease has been negotiated with Point West Credit Union.
- c. It is in the best interests of the County to lease the Property on the terms and  
conditions set forth in the attached lease.

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

1. The Board approves the attached lease. The County Chair is authorized to  
execute the lease substantially in the form attached to this Resolution.
2. The County Chair is authorized to execute renewals of the lease and to execute  
amendments to the lease without further Board action.

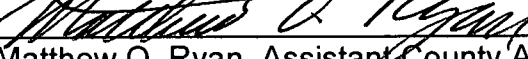
ADOPTED this 14th day of October, 2004.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Matthew O. Ryan, Assistant County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 04-147**

Declaring Property Located within Six County Buildings to be Surplus and Approving a Real Property Lease for Automated Teller Machine Sites to Point West Credit Union

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

- a. The property sites are located within the following County owned facilities: Multnomah County Courthouse, Justice Center, Gladys McCoy Building, Juvenile Justice Center, Penumbra Kelly Building, and Multnomah Building, (Collectively referred to as the "Property") and as more particularly identified in the proposed lease; is, at this time, surplus to any County use.
- b. The attached lease has been negotiated with Point West Credit Union.
- c. It is in the best interests of the County to lease the Property on the terms and conditions set forth in the attached lease.

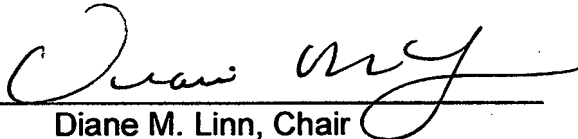
**The Multnomah County Board of Commissioners Resolves:**

1. The Board approves the attached lease. The County Chair is authorized to execute the lease substantially in the form attached to this Resolution.
2. The County Chair is authorized to execute renewals of the lease and to execute amendments to the lease without further Board action.

ADOPTED this 14th day of October, 2004.

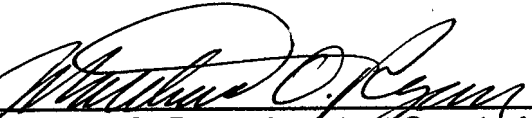


BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Matthew O. Ryan, Assistant County Attorney

**AUTOMATED TELLER MACHINES SERVICES CONCESSION AND LEASE** (the "Lease"), effective the \_\_\_\_\_ day of \_\_\_\_\_, 2004, is between **MULTNOMAH COUNTY** (the "County") and **POINT WEST CREDIT UNION** ("Point West").

## **RECITALS**

- A. The County is the owner of various facilities more particularly identified in "The County Facilities List" attached hereto as Exhibit A.
- B. The term Automated Teller Machine (ATM) is defined as an electronic device dispensing cash to valid card holders belonging to most national and international ATM and debit networks and may also include certain limited deposit capabilities, and
- C. The parties to this Lease entered into a Lease in 1999 to provide for Point West's use of County facilities as a location for its ATMs, and now wish to continue this relationship as provided herein.
- D. The availability of close-by ATMs is a convenience for members of the general public to acquire cash for the payment of bail, fees, fines, and other services due to the COUNTY, and
- E. The availability of close-by ATMs promotes the efficient use of the time and resources of COUNTY employees directly serving the general public in the above mentioned activities, and
- F. The availability of close-by ATMs enhances efficient time-management of COUNTY employees in general,
- G. The COUNTY finds it is in the best interests of its employees and the general public to provide no or very low fee transactions at ATMs located nearby to COUNTY services and employee work sites.

The parties, intending to be legally bound by this Lease, agree as follows:

### **1. USE OF PREMISES**

1.1 Lease and Description of Premises. Subject to Section 1.4, the County Leases to Point West and Point West Leases from the County certain space consisting of six (6) ATM locations as more specifically identified and described in Exhibit A and in "The ATM Services Locations Map" attached hereto as Exhibit B, (The locations are collectively known as the "Premises").

1.2 Original Term. The term of the Lease shall commence July 1, 2004 and continue through June 30, 2007, unless sooner terminated as hereinafter provided and subject to the party's agreement to renew as provided herein.

1.3 Permitted Use. All portions of the Premises designated in Section 1.1 above as

ATM Service Locations may be used only for the installation, operation, maintenance, repair and replacement of automated teller machines and may include the placement and operation of a locked and secured deposit box for the benefit of Point West patrons. No other use may be made of the Premises without the prior written consent of the County.

1.3.1 Limits on Use.

1.3.1.1 Point West shall not, without the prior written consent of the County, use any device which would violate any local noise ordinance or cause substantial noise, vibration, fumes or electronic interference on the Premises.

1.3.1.2 No satellite or electronic transmitting devices (other than telephone, telex or telefax machines) shall be installed, maintained or operated on the Premises except with the written approval of the County.

1.3.1.3 Point West shall not overload the electrical circuits from which Point West obtains current. Electrical service furnished will be 120 volts unless different service already exists in the Premises. Point West shall provide Point West's own surge protection for power furnished to computers and any other electronic devices/equipment approved for use by the County.

1.3.1.4 Point West shall not use or permit anyone else to use the Premises in a manner, nor shall Point West permit anything to be done on the Premises, which: (a) adversely affects or is likely to adversely affect the Premises; (b) creates any condition that may be a safety hazard; (c) creates or tends to create a hazard or a nuisance; or (d) interferes in any way with County operations.

1.4 Appurtenant Rights. Subject to any applicable rules, regulations, or County policy governing the space, the County grants to Point West the nonexclusive right to use, in common with others, the areas designated by the County to be public or to be used in common, including, but not limited to, the, waiting rooms, hallways, restrooms and other visitor conveniences at the County locations ("Common Areas") for Point West's employees, patrons, guests and invitees for the use for which the Common Areas were designed. Point West's right under this section includes the right of ingress to and egress from the Premises for Point West and its employees, patrons, guests, invitees, suppliers of materials and services, along with equipment, vehicles and other property related to Point West's business under this Lease. The rights of ingress and egress granted by this section may be exercised without charge, provided that the County may charge Point West for employee, patron, guest, and supplier parking privileges.

1.5 Regulatory Approval. The parties acknowledge that Point West is credit union, subject to regulation by state and federal authorities. Certain of the obligations of Point West under this Lease may require the approval of one or more state or federal regulatory agencies. The parties agree that Point West may not act in violation of any applicable law or regulation, and to the extent that regulatory approval is required for any specific obligation, this Lease is subject to such approval; provided, however, that Point West agrees to submit all required fees, applications and materials and otherwise make reasonable efforts to obtain such approvals. In the event that regulatory approval is not given after reasonable effort, this Lease shall not terminate, but payments to the County shall be adjusted based on the services approved for installation. If

approval is not received with respect to 3 or more of the ATMs, either party to this Lease may terminate this Lease on thirty (30) days written notice given within thirty (30) days of the notice of disapproval of the ATMs.

1.6 Continuous Operation. Point West shall occupy the Premises continuously for the purpose stated in this lease and carry on business during the hours customary in comparable businesses similarly situated with adequate inventory and personnel. This shall not prevent Point West from closing for brief periods when reasonably necessary for inventory, repairs, remodeling (when permitted), or other legitimate purpose related to the business carried on, or when closure is the result of a labor dispute, however caused, or other factors not within Point West's control

1.7 No Partnership. County is not by virtue of this section a partner or joint venturer with Point West in connection with the business carried on under this lease, and shall have no obligation with respect to Point West's debts or other liabilities.

1.8 Renewal Option. If the lease is not in default at the time the option is exercised or at the time the renewal term is to commence, Tenant shall have the option to renew this lease for one successive term of one (1) year, as follows:

1.8.1. The renewal term shall commence on the day following expiration of the preceding term.

1.8.2. The option may be exercised by written notice to Landlord given not less than sixty (60) days prior to the last day of the expiring term. The giving of such notice shall be sufficient to make the lease binding for the renewal term, subject to any rent adjustment as provided in subsection 1.7.3. If Tenant does not provide such notice, Landlord may lease Premises to another tenant at the expiration of the remaining term.

1.8.3. All terms and conditions of the lease for the renewal term shall be identical with the original term except for rent. Rent for the renewal term shall be based upon the percentage change over the preceding 12 month term in the Consumer Price Index – All Urban Consumers – Portland-Salem, OR-WA (1982-84 = 100) or the nearest comparable data on changes in the cost of living if such index is no longer published. The change shall be determined by comparison of the most recent figure available on July 1, 2004 and that available on July 1 of the succeeding year. In no event, however, shall base rent be reduced below that payable during the first year of this lease.

## 2. RENT

2.1 Base Rent: Base rent for each of the 6 POINT WEST ATMs will be \$800 per year, for a total of \$4,800 per year effective July 1, 2004 through June 30, 2007. The full rent for the next pending year will be due on July 1, 2005 and every subsequent July 1 thereafter for the remainder of this lease.

2.2 Rent Credit: Point West has a credit balance of \$3,250 under the previous ATM Lease. The \$3,250 credit balance will be applied toward the annual rent, which commences July



1, 2004. The balance due to the County for the initial Lease term will therefore be \$1,550 payable within 30 days of lease execution by all parties.

2.3 Acceptance of Rent. The County's acceptance of a late or partial payment of Rent and/or a Delinquency Charge shall not constitute a waiver of any Event of Default (as hereinafter defined) nor shall it prevent the County from exercising any of its other rights and remedies granted to the County under this Lease or by law. It is hereby agreed that any endorsements or statements on checks of waiver, compromise, payment in full or any other similar restrictive endorsement shall have no legal effect. Point West shall remain in default and obligated to pay all Rent due even if the County has accepted a partial or late payment of Rent.

2.4 Additional Rent. All sums other than Base Rent which become payable by Point West to the County under this Lease shall be considered "Additional Rent". "Rent" as used in this Lease shall mean Base Rent and Additional Rent. Rent for any partial month shall prorated.

2.5 No Offset. Payment of Rent and other amounts due under this Lease shall be made without offset, abatement or deduction, to the County

### 3. TAXES.

3.1 Point West to Pay Taxes. Unless exempt, Point West agrees to pay all lawful taxes, assessments and user fees, however named, which during the Term of this Lease or any extension may become a lien or which may be levied by the state, county, city, district or any other body upon the Premises or Improvements (as defined in Section 5.1.1), or upon any taxable interest of Point West acquired in is Lease, or any taxable possessory right which Point West may have in or to the Premises by reason of its occupancy thereof, as well as all taxes on all taxable property, real or personal, owned by Point West in or about said Premises (collectively, "Taxes"). Upon making such payments, Point West shall give to the County a copy of the receipts and vouchers showing such payment.

3.2 Taxes for Entire Year. Point West understands that the Premises are exempt from property taxes until Leased to a taxable entity. In the event that the term of this Lease or any extension thereof ends after June 30 of any year, Point West shall be responsible for payment of property taxes for the entire tax year without pro-ration, or, in the event of any change in property tax law, for any taxes due under such law. With respect to assessments for public improvements which are or may be payable in Bancroft installments, Point West shall be required to pay only those installments which become due during the Term.

### 4. MAINTENANCE AND OPERATIONS.

#### 4.1 County's Obligations.

4.1.1 For each ATM location, the County shall be responsible for basic site preparation, providing standard 120 volt electric service, and for the installation of the conduit for communications line and shall not be liable to Point West or any other person or entity for any loss or curtailment of power, unless caused by the gross negligence or intentional misconduct of the County.

4.1.2 The County shall have no construction or installation obligations with respect to the ATM Services Center location.

4.1.3 The County shall provide regular janitorial services to each ATM location and keep such locations in a clean and orderly condition.

4.1.4 The County shall have no liability for failure to perform any required maintenance and repair unless written notice of the need for such maintenance or repair for which the County is responsible is given by Point West and the County fails to commence efforts to remedy the problem in a reasonable time and manner. The County shall have no liability for interference with Point West's use, which might result from the County's repair and maintenance efforts and no such efforts shall be construed as a constructive eviction or other eviction of Point West. Rent shall not be reduced during any such repair period, except that Rent shall be proportionately abated for any period of time exceeding thirty (30) days that any ATM or ATM services center is not able to be operated by Point West because of the County's maintenance or repair. Notwithstanding the foregoing, any repair of damage caused by negligence or breach of this Lease by Point West, Point West's subtenants, employees, agents, contractors or invitees, shall be Point West's responsibility and shall be done at Point West's sole, expense.

#### 4.2 Point West's Obligations.

4.2.1 Except for the obligations of the County mentioned in Section 4.1, Point West shall operate and maintain six ATMs at the locations set forth in Section 1.1. All costs of acquisition, installation, connection and repair of the ATMs shall be the responsibility of Point West. All telephone/communications cable installed by Point West shall be of a type and grade satisfactory to the County.

4.2.2 Point West's Maintenance and Operation Obligations. Point West shall operate each ATM either (24) hours per day, seven (7) days per week, or during regular business hours of the County facility. All regularly scheduled maintenance, service, repair and replacement shall occur during non-peak passenger traffic times, which may vary from location to location. Emergency repairs to the ATM's may be conducted during regular business hours as necessary or after business hours provided any such after hours activity is conducted with the prior consent of the County.

4.2.3 ATM Lockboxes. Point West shall provide to County (i) a lockbox located near each ATM containing a key or (ii) other separate disconnect, at the option of the County, to access the top wiring assembly portion of each ATM machine in the event of a fire. This requirement shall not be construed to require Point West to allow the County to have access to wiring which would compromise the security of the safe and its cash.

### 5. POINT WEST'S OTHER OBLIGATIONS

5.1 Title to Improvements. All Improvements approved by the County and any County approved additions and alterations to the Improvements or the Premises shall be completed at Point West's sole cost and expense and shall remain the property of Point West until the termination of this Lease. Upon expiration or termination of this Lease for any reason,

all Improvements shall become the property of the County; except that if Point West is not in default at the time of expiration or termination of the Lease, and if they are removed from the Premises no later than fourteen (14) days after termination, then the ATMs, surrounds around the ATMs, signs, deposit boxes, kiosk and equipment owned and used by Point West and each part thereof is and for all purposes shall remain Point West's personal property and shall not become or be considered real property or property of the County, regardless of whether or by what means they are or may become attached or affixed to the Terminal Building, and, subject to Section 5.6, Point West may place on the Premises a statement to this effect or any other statement Point West deems necessary or desirable to disclose and protect its interest in the Premises and the personal property. Point West shall remove its trade fixtures, signs, and personal property in a manner and at times that do not interrupt operation of the County facilities. Point West shall repair all damage done to the Premises or other County-owned property resulting from the removal of such trade fixtures, signs, and personal property and shall restore the Premises and other County-owned property to the state of good repair that existed prior to the installation of Point West's trade fixtures, signs, and personal property, less normal wear and tear.

5.2 Removal and Demolition: Point West shall not remove or demolish, in whole or in part, any Improvements on the Premises without the prior written approval of the County.

5.3 No Liens. Point West agrees to pay, when due, all sums for labor, services, materials, supplies, utilities, furnishings, machinery, or equipment, which have been provided or ordered with Point West's consent to the Premises. If any lien is filed against the Premises, which Point West wishes to protest, then Point West shall immediately deposit cash with the County, or procure a bond acceptable to the County, in an amount sufficient to cover the cost of removing the lien from the Premises. Failure to remove the lien or furnish the cash or bond acceptable to the County within ten (10) days shall constitute an Event of Default under this Lease and the County shall automatically have the right, but not the obligation, to pay the lien off with no notice to Point West and Point West shall immediately reimburse the County for any sums so paid to remove any such lien. Point West shall not encumber the Premises or any Improvements thereon without prior written approval of the County.

5.4 Utilities and Services.

5.4.1 Utilities. The County shall provide electric service to the Premises, at no additional charge to Point West. No other utilities shall be provided by the County. Unavailability or interruption of services shall not be deemed an eviction or disturbance of Point West's use and possession of the Premises, render the County liable to Point West for damages, or relieve Point West from performance of Point West's obligations under this Lease, including full payment of all Rent due.

5.5 Signs. Point West shall not erect, install, nor permit on the Premises any sign or other advertising device without first having obtained the County's written consent, which the County may withhold in its sole discretion. Point West shall request the County's approval by written request, which must include a detailed rendering or drawing of the proposed sign. Without the County's consent, the Point West may add to or delete the logos for the ATM networks accessible through the Point West's ATMs, so long as the new logo signs are comparable in size to the existing logo signs. In addition, without the County's consent, the Point West may change the trademark or service mark under which the ATMs and other ATM services

are provided so long as the Point West is changing the signs at its other ATM and ATM services locations in Oregon and so long as the size, brightness and quality of the new signs are comparable to that of the old signs. Point West shall remove all signs and sign hardware upon termination of this Lease and restore the sign location updated.

## 5.6 Compliance with Laws.

5.6.1 General. Point West and Point West's officers, employees, invitees, agents and contractors shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, including laws governing its relationship with its employees, including but not limited to laws, rules, regulations and policies concerning Workers' Compensation, and minimum and prevailing wage requirements; laws, rules and regulations and policies relative to occupational safety and health; all federal, state, regional and local environmental laws; and ordinances and rules adopted by the County Commission.

5.6.2 Licenses and Permits. Point West shall maintain in current status all federal, state, and local licenses and permits necessary or required by law for the construction of improvements, the installation of equipment and furnishings, and any other licenses necessary for the operation of Point West's business.

5.7 Hazard, Potential Hazard, Nuisance, or Annoyance. Any nuisance, annoyance, or hazardous or potentially hazardous condition on or emanating from the Premises shall be corrected immediately upon Point West's actual knowledge of the condition, nuisance, or annoyance or receipt of oral or written notice from the County. If, in the County's sole discretion, a hazard or potentially hazardous condition presents an unreasonable and imminent risk of bodily injury, the County may require Point West to close its business and bar the public from the Premises until the hazard or potentially hazardous condition has been abated. Nothing in this section shall be deemed to preclude the County from pursuing any available remedy for breach of this Lease. Point West's failure to promptly correct a nuisance, annoyance, or hazardous or potentially hazardous condition under this paragraph shall be a material breach of this Lease.

## 6. COUNTY AUTHORITY

6.1 Quiet Enjoyment. Subject to Point West performing all of Point West's obligations under this Lease and subject to the County's rights under this Lease and its rights of eminent domain under Oregon law, Point West's possession of the Premises will otherwise not be disturbed by the County.

6.2 Condition of Property. The County makes no warranties or representations regarding the condition of the Premises, including, without limitation, the suitability of the Premises for Point West's intended uses. Point West has inspected and accepts the Premises in "AS IS" condition on taking possession. The County shall have no liability to Point West, and Point West shall have no claim against the County, for any damage or injury caused by the condition of the Premises. Unless otherwise agreed to in writing by the County, the County shall have no responsibility to bring the Premises into compliance with any laws, including, without limitation, any building or occupancy codes. Point West shall also be solely responsible for ensuring that the Premises meets all requirements of the Americans With Disabilities Act, but

shall not be responsible for ensuring that access to the Premises meets such requirements.

6.3 County Access to Property. The County shall have the right to enter upon the Premises for the purposes of: (a) confirming the performance by Point West of all obligations under this Lease; (b) doing any other act which the County may be obligated or have the right to perform under this Lease; and (c) for any other lawful purpose. Such entry shall be made with reasonable advance notice and during normal business hours, where practical, except in cases of emergency or a suspected violation of this Lease or the law. Point West waives any claim against the County for damages for any injury or interference with Point West's business, any loss of occupancy or quiet enjoyment of the Premises or any other loss occasioned by such entry, except to the extent caused by the gross negligence or willful misconduct of the County.

6.4 County Authority Over Common Areas. In addition to any other rights granted by law or by this Lease, the County reserves the following rights with respect to the Common Areas: to adjust the boundaries of, expand or delete Common Areas; change the rules for use of the Common Areas; permit the use of the Common Areas by others in such manner as the County may from time to time determine; close all or any portion of the Common Areas (so long as Point West still has ingress and egress to the Premises); construct additional buildings or other improvements in the Common Areas; and evict anyone from the Common Areas who fails to comply with any applicable laws including applicable County Ordinances and/or County Rules.

## SECTION 7- ENVIRONMENTAL OBLIGATIONS OF POINT WEST

7.1 Definitions. As used in this Lease, the following terms shall be defined as follows:

7.1.1 "Environmental Laws". "Environmental Laws" shall be interpreted in the broadest sense to include any and all federal, state and local statutes, regulations, rules and ordinances now or hereafter in effect, as the same may be amended from time to time, which in any way govern materials, substances, or products and/or relate to the protection of health, safety or the environment.

7.1.2 "Hazardous Substances". "Hazardous Substances" shall be interpreted in the broadest sense to include any substance, material or product defined or designated as hazardous, toxic, radioactive, dangerous or regulated wastes or any other similar term in or under any Environmental Laws. -

7.2 Use of Hazardous Substances. No handling, storage, generation, creation, disposal, transportation or discharge of any Hazardous Substances shall be permitted on, about or from the Premises. Tenant shall not cause or permit any Hazardous Substance to be spilled, leaked, disposed of, or otherwise released on or under the Premises. This restriction shall not apply, however, to Point West's use of ordinary office and janitorial supplies which are available over the counter for common use by members of the general public so long as such use is in small quantities. Nor shall this prohibition apply to substances fully contained inside of automobiles so long as used in accordance with all legal requirements of all Environmental Laws. Tenant shall comply with all Environmental Laws and exercise the highest degree of care in the use, handling, and storage of Hazardous Substances and shall take all practicable measures to minimize the quantity and toxicity of Hazardous Substances used or handled on the Premises.

## 8. INSURANCE.

8.1 Insurance Required. Point West shall carry insurance insuring the property of Point West on the Premises against fire and other risks covered by a standard fire insurance policy with an endorsement for extended coverage such risks.

8.2 Waiver of Subrogation. Neither party shall be liable to the other (or to the other's successors or assigns) for any loss or damage caused by fire or any of the risks enumerated in a standard fire insurance policy with an extended coverage endorsement, and in the event of insured loss, neither party's insurance company shall have a subrogated claim against the other. This waiver shall be valid only if the insurance policy in question expressly permits waiver of subrogation or if the insurance company agrees in writing that such a waiver will not affect coverage under the policies. Each party agrees to use best efforts to obtain such an agreement from its insurer if the policy does not expressly permit a waiver of subrogation.

8.3 Liability Insurance. Point West, at its expense, shall obtain, and keep in effect at all times during the Term of this Lease, Commercial General Liability Insurance in respect of the Premises and the conduct or operation of its business, covering Bodily Injury and Property Damage on an "occurrence" form with a combined single limit of not less than \$1,000,000 each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. Multnomah County, its agents, officers, and employees shall be named as additional insureds on the policy, by endorsement. Insurance Coverage must be provided by an insurance company acceptable to the County.

## 9. ALTERATIONS

9.1 Alterations Prohibited. Tenant shall make no improvements or alterations on the Premises of any kind without first obtaining Landlord's written consent. All alterations shall be made in a good and workmanlike manner, and in compliance with applicable laws and building codes. As used herein, "alterations" includes the installation of computer and telecommunications wiring, cables, and conduit.

## 10. TERMINATION

10.1 Duties on Termination. Upon termination of the Lease for any reason, Point West shall deliver all keys to the County and surrender the Premises and all Improvements in good clean condition. All Improvements on the Premises, whether constructed by the County or by Point West, except Point West's personal property described in Section 5.2 above, shall, at the County's option, become County property and shall not be removed unless the County directs Point West to remove such Improvements, in which case Point West must promptly remove the Improvements and then repair any damage to the Premises. All repairs for which Point West is responsible shall be completed prior to termination and surrender.

### 10.2 Point West's Personal Property.

10.2.1 Removal Requirement. Furniture, decorations, detached floor covering,

curtains, blinds, furnishings and removable trade fixtures including personal property of Point West described in Section 5.2 above, shall remain the property of Point West if placed on the Premises by Point West, at Point West's expense. At or before the expiration or termination of this Lease, Point West, at Point West's expense, shall remove from the Premises any and all of Point West's removable personal property and shall repair any damage to the Premises resulting from the installation or removal of such personal property. Title to any items of Point West's trade fixtures and other personal property which remain on the Premises after the Expiration Date or the effective date of the termination of this Lease may, at the option of the County, be automatically taken by the County, and the County shall have the option, in its sole discretion, of: (a) retaining any or all of such trade fixtures and other personal property without any requirement to account to Point West therefore, or (b) removing and disposing of any or all of such trade fixtures and other personal property and recovering the cost thereof, plus interest from the date of expenditure at the County's then current interest rate, from Point West upon demand.

**10.2.2 Time for Removal.** The time for removal of any property which Point West is required to remove from the Premises upon expiration or termination shall be as follows: (a) within thirty (30) days after notice from the County requiring such removal where the property to be removed is an Improvement which Point West is not required to remove except after election or notice by the County; or (b) if this Lease is terminated unexpectedly due to a casualty loss, condemnation, an uncured Event of Default or for any other reason prior to the Expiration Date, then all removal must occur within thirty (30) days of the effective date of the termination and Point West must continue to pay all Rent during that period.

**10.3 Holding Over.** If Point West holds over after this Lease expires or terminates, Point West shall be deemed a month-to-month holdover Point West or a Point West at sufferance, at the County's sole discretion. In the event that this Lease has expired or is otherwise terminated and Point West holds over after written notice from the County that Point West must vacate the Premises, Basic Rent shall be 150% of the amount otherwise determined under Section 3.1, and all other payment obligations under this Lease shall apply. In the event the County deems Point West to be a Point West at sufferance, the County shall be entitled to exercise any rights pursuant thereto.

## **SECTION 11 - DEFAULT**

**11.1 Event of Default.** The occurrence of any of the following shall constitute an Event of Default:

**11.1.1 Default in Rent.** Point West's failure to pay rent or any other charge under this Lease within ten (10) days after it is due (provided, however, that the first time in any twelve (12) month period that Point West fails to pay rent or any other charge under this Lease within ten (10) days after it is due, Point West shall not be in default under this Lease unless such failure continues for ten (10) days after receipt by Point West of notice of such failure).

**11.1.2 Default in Other Covenants.** Point West's breach of this Lease for failure to comply with any term, covenant or condition of this Lease (other than the payment of Rent or other amounts or a failure to obtain or keep in full force and effect the insurance required by this Lease) within thirty (30) days after written notice by the County describing the nature of the breach. If the breach is of such a nature that it cannot be completely remedied within the thirty (30) day period, this provision shall be complied with if Point West begins correction of the

default within the thirty (30) day period and thereafter proceeds in good faith and with reasonable diligence to effect the cure as soon as practical, so long as done to the satisfaction of the County. Notwithstanding the foregoing, the County need not give notice for a similar type of breach more than twice during the Lease Term, and a failure to perform such type of obligation after the second notice constitutes an Event of Default for which no further notice or opportunity to cure need be given. Furthermore, if any Event of Default threatens to cause serious harm to the County or other persons, then the County shall not be required to serve any notice before proceeding to request immediate injunctive relief.

11.1.3 Insolvency. To the extent permitted by the United States Bankruptcy Code, insolvency of Point West shall be deemed to include an assignment by Point West for the benefit of creditors; the filing by Point West of a voluntary petition in bankruptcy; an adjudication that Point West is bankrupt or the appointment of a receiver of the properties of Point West and the receiver is not discharged within thirty (30) days; the filing of an involuntary petition of bankruptcy and failure of Point West to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levying of execution on the Leasehold interest and failure of Point West to secure discharge of the attachment or release of the levy of execution within ten (10) days, shall all constitute an Event of Default hereunder. In these instances, no notice that an Event of Default has occurred shall be required from the County.

11.1.4 Abandonment. Point West's abandonment by failure of Point West for more than three (3) business days after written notice to use and occupy all or part of the Premises for one or more of the purposes permitted under this Lease unless such failure is excused under other provisions of this Lease. No notice that an Event of Default has occurred shall be required from the County.

11.2 Remedies on Default. Upon the occurrence of an Event of Default, the County at its option may terminate the Lease or terminate Point West's right to possession of the Premises and at any time may exercise any other remedies available under this Lease, at law or in equity for such Event of Default. Any notice to terminate may be given before or within the grace period for default and may be included in the notice of breach. Without limiting the foregoing, upon the occurrence of an Event of Default, the County may exercise any or all of the following remedies:

11.2.1 Re-entry. The County may re-enter the Premises, or any part thereof, by suitable action or proceeding at law, or by force or otherwise, without being liable for indictment, prosecution or damages therefore, and may repossess the Premises and remove any person or property there from, to the end that the County may have, hold and enjoy the Premises.

11.2.2 Rent Recovery. Whether or not the County retakes possession of the Premises, the County shall have the right to recover unpaid rents and all damages caused by the default. Damages shall include, without limitation: all Rents lost; all legal expenses and other related costs incurred by the County as a result of Point West's default; all costs incurred by the County in restoring the Premises to good order and condition, or in remodeling, renovating or otherwise preparing the Premises for reletting; and all costs incurred by the County in reletting the Premises, including, without limitation, any brokerage commissions and the value of the County's staff time expended as a result of the default.



11.3 Remedies Cumulative and Nonexclusive. Each right and remedy in this Lease will be cumulative and will be in addition to every other right or remedy in this Lease or existing at law or in equity, including, without limitation, suit for injunctive relief and specific performance. The exercise or beginning of the exercise by the County of any such rights or remedies will not preclude the simultaneous or later exercise by the County of any other such rights or remedies. All such rights and remedies are nonexclusive.

11.4 Termination. Even though Point West has breached this Lease, this Lease shall continue for so long as the County does not terminate Point West's right to possession, and the County may enforce all of its rights and remedies under this Lease, including the right to recover the Rents as they become due under this Lease. Acts of maintenance or preservation or efforts to relet the Premises or the appointment of a receiver upon initiative of the County to protect the County's interest under this Lease shall not constitute a termination of Point West's rights to possession unless written notice of termination is given by the County to Point West. Any notice to terminate may be given before or within the cure period for default and may be included in the notice of breach. No such termination shall prejudice the County's right to claims for damages for such breach or any other rights and remedies of the County.

11.5 Curing Point West's Defaults. If Point West shall default in the performance of any of Point West's obligations under this Lease, the County, without waiving such default, may (but shall not be obligated to) perform the same for the account of and at the expense of Point West, without notice in a case of emergency, and in any other cases, only if such default continues after the expiration of thirty (30) days from the date the County gives Point West notice of the default. The County shall not be liable to Point West for any claim for damages resulting from such action by the County. Point West agrees to reimburse the County upon demand, as Additional Rent, any amounts the County may spend in complying with the terms of this Lease on behalf of Point West. The County shall have the same rights and remedies in the event of the nonpayment of sums due to be reimbursed under this Section as in the case of default by Point West in the payment of any other Rent.

11.6 Default by County. In the event of any default by the County, Point West's exclusive remedy shall be to declare this Lease and all rights and interests created by it to be terminated, except in the case of damage of Point West's personal property and Improvements caused by willful or negligent actions by the County, its employees or agents, in which case, the County, to the extent permitted by law, shall be responsible for reimbursing Point West for the cost of repairing or replacing the damaged property or Improvements. Point West expressly waives any claim against the County, its officers, agents, or employees for loss of anticipated profits in any suit or proceeding involving this Lease or any part of this Lease. Prior to being entitled to declare the Lease terminated, Point West shall give the County written notice specifying such default with particularity, and the County shall have thirty (30) days within which to cure any such default, or if such default cannot reasonably be cured within thirty (30) days, the County shall then have thirty (30) days to commence cure and shall diligently prosecute cure to completion. Unless and until the County fails to so cure such default after such notice, Point West shall not have any remedy or cause of action by reason thereof. All obligations of the County hereunder shall be construed as covenants, not conditions, and all such obligations shall be binding upon the County only during the period of its ownership of the Premises and not thereafter, subject to Section 12.3 below.

11.7 Mediation of Disputes. Should any dispute arise between the parties to this Lease other than a dispute regarding (1) the failure to pay fees or other payments as required by this Lease or (2) possession of the Premises, it is agreed that such dispute will be submitted to a mediator prior to any arbitration or litigation. The parties shall exercise good faith efforts to select a mediator who shall be compensated equally by both parties. Mediation will be conducted in Portland, Oregon, unless both parties agree otherwise. Both parties agree to exercise good faith efforts to resolve disputes covered by this section through this mediation process. If a party requests mediation and the other party fails to respond within ten (10) days, or if the parties fail to agree on a mediator within ten (10) days, a mediator shall be appointed by the presiding judge of the Multnomah County Circuit Court upon the request of either party. The parties shall have any rights at law or in equity with respect to any dispute not covered by this Section 11.7

## SECTION 12- ASSIGNMENT, SUBLEASE AND TRANSFER

12.1 General Prohibition. This Lease is personal to Point West. Therefore, unless otherwise provided in this Lease, no part of the Premises, nor any interest in this Lease, may be assigned, pledged, transferred, mortgaged, or subleased by Point West, nor may a right of use of any portion of the Premises be conveyed or conferred on any third party by Point West by any other means, without the prior written consent of the County. Whether to deny or grant any such request shall be in the County's sole discretion. Any assignment or attempted assignment without the County's prior written consent shall be void. If Point West is a corporation or other entity, change in ownership of the controlling interest in the stock of the corporation or ownership interest in such other entity, through sale, exchange, merger, consolidation or other transfer, shall be deemed an assignment of this Lease requiring the County's consent. This provision shall apply to all transfers, including any that may occur by operation of law, but shall not apply to assignments or transfers to subsidiaries of Point West or subsidiaries of Point West's parent with which Point West may merge or consolidate.

12.2 Effect of Consent. No assignment or subletting by Point West shall relieve Point West of any obligation under this Lease and Point West shall remain fully liable hereunder unless a specific written release is given by the County. Any attempted assignment or sublease by Point West in violation of the terms and covenants of this Section 12.1 shall be void. Any consent by the County to a particular assignment or sublease shall not constitute the County's consent to any other or subsequent assignment or sublease. If consent is granted, Point West shall provide a copy of the signed assignment or sublease document to the County promptly after execution. The sublease or assignment instrument shall contain a provision requiring that the sublessee or assignee perform and observe all terms and conditions of this Lease and shall provide that the County has the right to enforce such terms and conditions directly against such assignee or sublessee.

12.3 Transfer by the County. At any time after the Commencement Date of this Lease, the County shall have the right to transfer its interest in the Premises or in this Lease. In the event of such a transfer, Point West shall attorn to said transferee and recognize transferee as the new Lessor under the Lease. Thereafter, the County shall be relieved, upon notification to Point West of the name and address of the County's successor, of any obligations accruing from and after the date of the transfer so long as the transferee agrees to assume all obligations of the County under this Lease.

12.4 Estoppel Certificates. Point West agrees to execute and deliver to County, at any time and within ten (10) days after written request, a statement certifying, among other things: (a) that this Lease is unmodified and is in full force and effect (or if there have been modifications, stating the modifications); (b) the dates to which Rent has been paid; (c) whether or not the County is in default in performance of any of its obligations under this Lease and, if so, specifying the nature of each such default; and (d) whether or not any event has occurred which, with the giving of notice, the passage of time, or both, would constitute such a default by the County and, if so, specifying the nature of each such event. Point West shall also include in any such statement such other information concerning this Lease as the County reasonably requests. The parties agree that any statement delivered pursuant to this section shall be deemed a representation and warranty by Point West, which may be relied upon by the County and by potential or actual purchasers and lenders with whom the County may be dealing, regardless of independent investigation. If Point West fails to provide such statement within ten (10) days after the County's written request therefore, Point West shall be deemed to have given such statement and shall be deemed to have admitted the accuracy of any information contained in the request for such statement.

### 13. MISCELLANEOUS

13.1 Covenants, Conditions, and Restrictions. This Lease is subject and subordinate to the effect of any covenants, conditions, restrictions, easements, mortgages, deeds of trust, ground Leases, rights of way, and any other matters of record now or hereafter imposed upon the Premises and to any applicable land use or zoning laws or regulations. Point West shall, upon request of the County, execute and deliver Leases of subordination in the form requested by the County.

13.2 Governing Law. This Lease shall be governed and construed according to the laws of the State of Oregon.

13.3 No Benefit to Third Parties. The County and Point West are the only parties to this Lease and as such are the only parties entitled to enforce its terms. Nothing in this Lease gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise to third parties unless third persons are expressly described as intended to be beneficiaries of its terms.

13.4 County Consent. Wherever this Lease requires the County's consent or approval, such consent or approval may be given by the County's Commission, the County Chair or Chair's designee. If Point West requests the County's consent or approval pursuant to any provision of the Lease and the County fails or refuses to give such consent, Point West shall not be entitled to any damages as a result of such failure or refusal, whether or not the failure or refusal was unreasonable. Point West's sole remedy shall be an action for specific performance or injunction, and such remedy shall be available only if the County has expressly agreed, in writing, not to act unreasonably in withholding its consent or may not unreasonably withhold its consent as a matter of law and the County has, in fact, acted unreasonably in either of those instances.

13.5 No Implied Warranty. In no event shall any consent, approval, acquiescence, or authorization by the County be deemed a warranty, representation, or covenant by the County that the matter approved, consented to, acquiesced in or authorized is appropriate, suitable,

practical, safe or in compliance with any applicable law or this Lease. In no event shall the County be deemed liable therefore. Point West shall be solely responsible for such matters.

13.6 Notices. All notices required or desired to be given under this Lease shall be in writing and may be delivered by hand delivery or by placement in the U.S. mail, postage prepaid, as certified mail, return receipt requested, addressed to the County and Point West at the following addresses:

Multnomah County Facilities and Property Management  
Attn: Asset Management – Leases  
401 N. Dixon Street  
Portland OR 97227-1865  
Phone 503-988-3322; Emergency 503-988-3779  
Fax: 503-988-5082

Point West Credit Union  
718 NE 12<sup>th</sup> Avenue  
Portland Oregon 97232  
Phone 503-546-5000  
FAX 503-546-5010

Any notice delivered by hand delivery shall be conclusively deemed received by the addressee upon actual delivery; any notice delivered by mail as set forth in this Lease shall be conclusively deemed received by the addressee on the third business day after deposit. The addresses to which notices are to be delivered may be changed by giving notice of such change in accordance with this notice provision.

13.7 Time of the Essence. Time is of the essence in the performance of and adherence to each and every covenant and condition of this Lease.

13.8 Nonwaiver. Waiver by the County of strict performance of any provision of this Lease shall not be deemed a waiver of or prejudice the County's right to require strict performance of the same provision in the future or of any other provision.

13.9 Survival. Any covenant or condition, set forth in this Lease, the full performance of which is not specifically required prior to the expiration or earlier termination of this Lease, and any covenant or condition which by their terms are to survive, shall survive the expiration or earlier termination of this Lease and shall remain fully enforceable thereafter.

13.10 Partial Invalidity. If any provision of this Lease is held to be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

13.11 Lease Subject to Bonds and Ordinances. This Lease shall be subject and subordinate to the bonds and ordinances, which create liens, and encumbrances as are now on the land, which constitutes the Premises. Point West agrees that the County may hereafter adopt such

bond ordinances, which impose liens, or encumbrances on said land and the County's interest in the Leasehold, and that Point West shall, upon request of the County, execute and deliver Leases of subordination consistent herewith.

13.12 Limitation on County Liability. The County shall have no liability to Point West for loss or damage suffered by Point West on account of theft or any act of a third party. The County shall only be liable for its willful misconduct or gross negligence and then only to the extent of actual and not consequential damages.

13.13 Relationship of Parties. Nothing contained in this Lease shall be deemed or construed by the County or Point West, or by any third party, as creating the relationship of principal and agent, partners, joint venturers, or any other similar such relationship, between the County and Point West. It is understood and agreed that neither the method of computation of rental and other payments, nor any other provision contained in this Lease, nor any acts of the County or Point West create a relationship other than the relationship of the County and Point West as described in this Lease.

13.14 Modification. This Lease may not be modified except by a writing signed by the parties hereto.

13.15 Waiver of Claims. Point West hereby waives any claim against the County and the State of Oregon and its officers or employees for loss of anticipated profits caused by any suit or proceedings directly or indirectly attacking the validity of this Lease or any part of this Lease, or by any judgment or award in any suit proceeding declaring this Lease null, void, or voidable, or delaying the Lease or any part of it from being carried out.

13.16 Incorporation of Required Provisions. The County and Point West hereby incorporate by this reference all provisions lawfully required to be contained in this Lease by any governmental body or agency.

13.17 Good Faith. The terms and conditions set forth in this Lease are for the mutual benefit of both parties. Because of the nature of this Lease, the County and Point West agree that there is an obligation and implied duty of reasonable diligence and good faith imposed on both parties to make reasonable efforts to fulfill the terms, conditions, and covenants imposed by this Lease.

13.18 Entire Lease. This Lease represents the entire Lease between the County and Point West relating to Point West's leasing of the Premises and shall supersede all previous communications, representations, or Leases, whether verbal or written, between the parties hereto with respect to such leasing. It is understood and agreed by Point West that neither the County nor the County's agents or employees have made any representations or promises with respect to this Lease or the making or entry into this Lease, except as in this Lease expressly set forth, and that no claim or liability or cause for termination shall be asserted by Point West against the County for, and the County shall not be liable by reason of, the claimed breach of any representations or promises not expressly stated in this Lease, any other oral Lease with the County being expressly waived by Point West.

13.19 Successors. The rights, liabilities and remedies provided for in this Lease shall

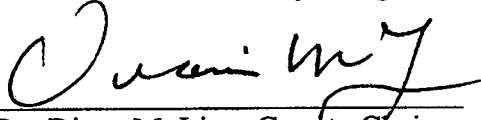
extend to the heirs, legal representatives, successors and, so far as the terms of this Lease permit, successors and assigns of the parties hereto. The words "County" and "Point West" and their accompanying verbs or pronouns, wherever used in this Lease, shall apply equally to all persons, firms, or corporations, which may be or become such parties hereto.

13.20 Joint and Several Obligations. If Point West consists of more than one individual or entity, the obligations of all such individuals and entities shall be joint and several.

13.21 Execution of Multiple Counterparts. This Lease may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one instrument.

13.22 No Limit on County's Powers. Nothing in this Lease shall limit, in any way, the power and right of the County to exercise its governmental rights and powers, including its powers of eminent domain.

For: Multnomah County, Oregon



By: Diane M. Linn, County Chair

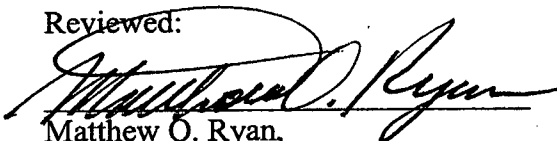
For: Point West Credit Union



By: Teri Piteck

Title: VP of Operations

Reviewed:



Matthew O. Ryan,  
Assistant County Attorney

APPROVED : MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS

AGENDA # R-3 DATE 10-14-04

DEBORAH L. BOGSTAD, BOARD CLERK

**EXHIBIT A**  
**The County ATM Facilities List**

Multnomah County Courthouse  
1021 SW 4<sup>th</sup> Avenue  
Portland, OR 97204

Justice Center  
1120 SW 3<sup>rd</sup> Avenue  
Portland, OR 97204

Gladys McCoy Building  
426 SW Stark Street  
Portland, OR 97204

Juvenile Justice Center  
1401 NE 68<sup>th</sup> Avenue  
Portland, OR 97213

Penumbra Kelly Building  
4747 E. Burnside Street  
Portland, OR 97214

Multnomah Building  
501 SE Hawthorne Blvd.  
Portland, OR 97214

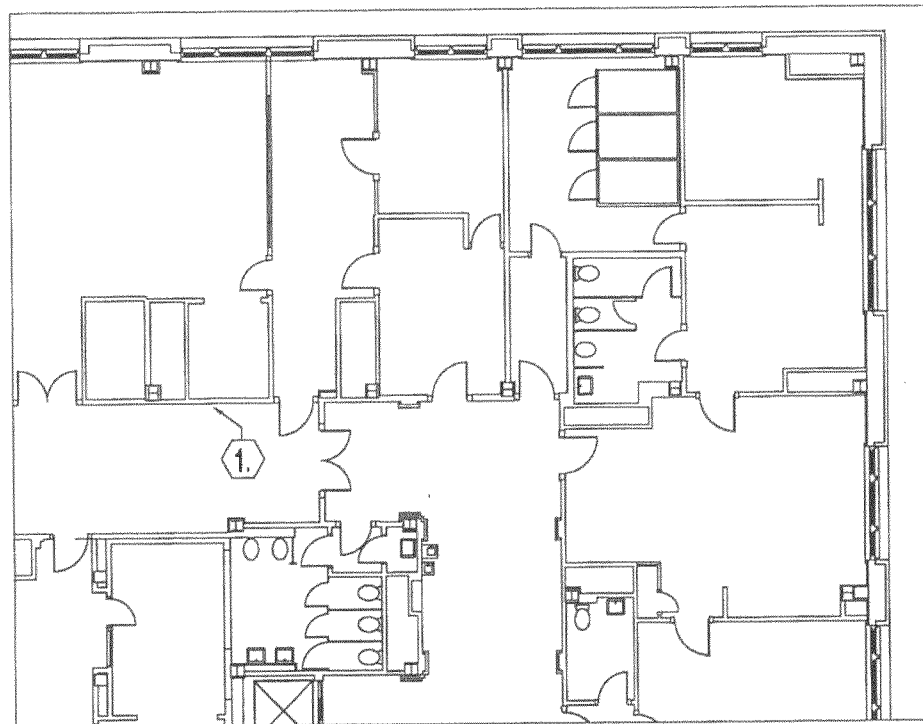
Occupant Information

① Point West Credit Union

**Multnomah County Court House - 101**

1021 SW 4th Ave.  
Portland, Oregon 97204

EXHIBIT B-1

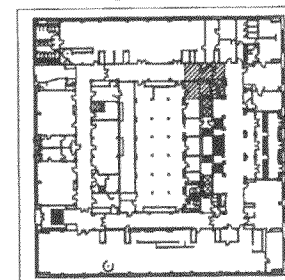


First Floor

Measured by: Mary Nguyen  
Date: 15 March 2004



Key Plan



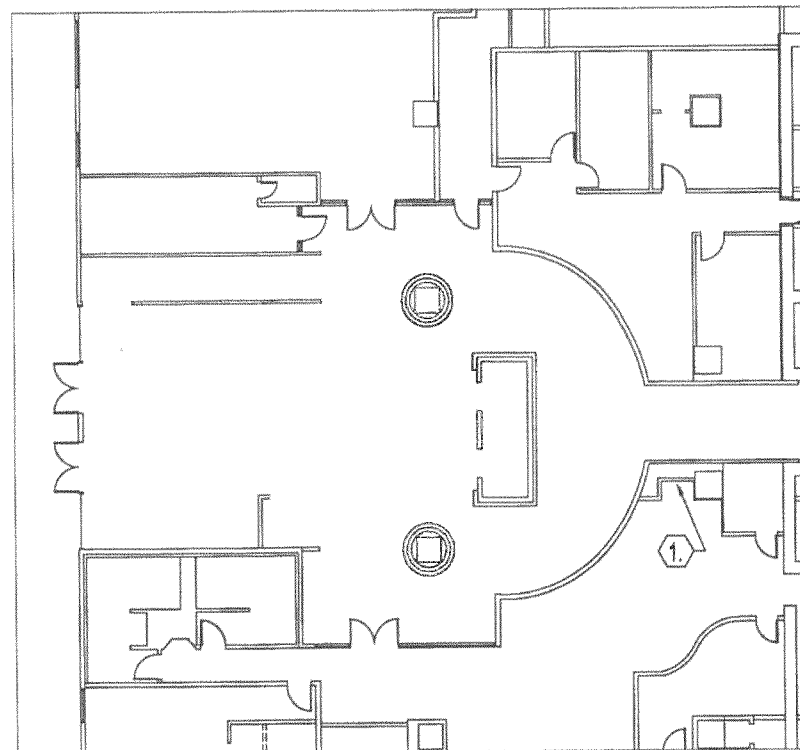


Occupant Information

① Point West Credit Union

Justice Center - 119  
1120 SW 3rd Avenue  
Portland, Oregon 97204

EXHIBIT B-2

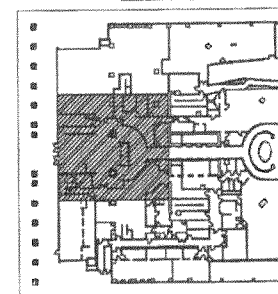


Second Floor

Measured by: Mary Nguyen  
Date: 15 March 2004



Key Plan

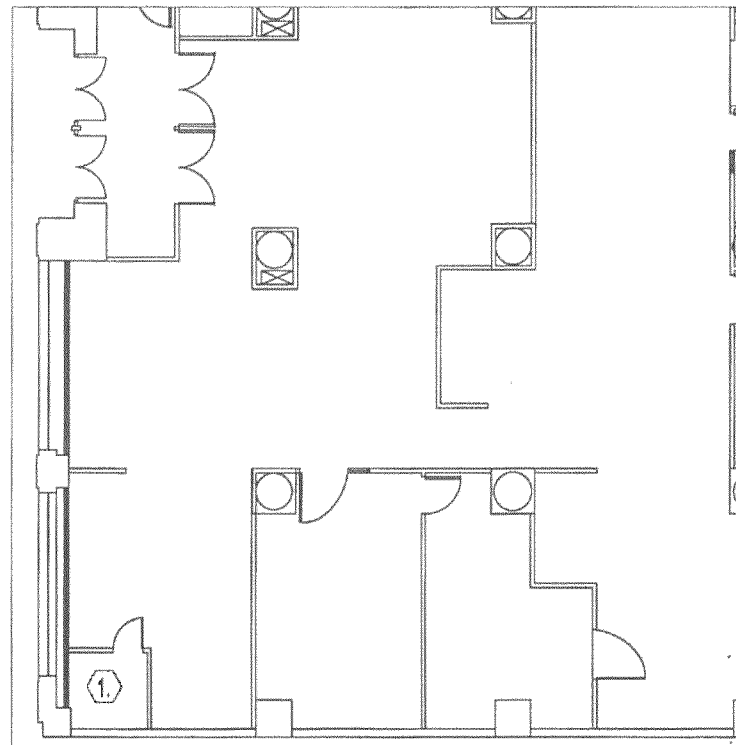


Occupant Information

① Point West Credit Union

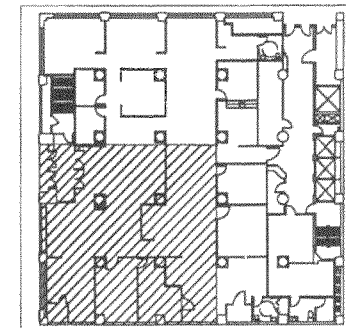
Gladys McCoy Building - 160  
428 SW Stark St  
Portland, OR 97204

EXHIBIT B-3



First Floor

Key Plan



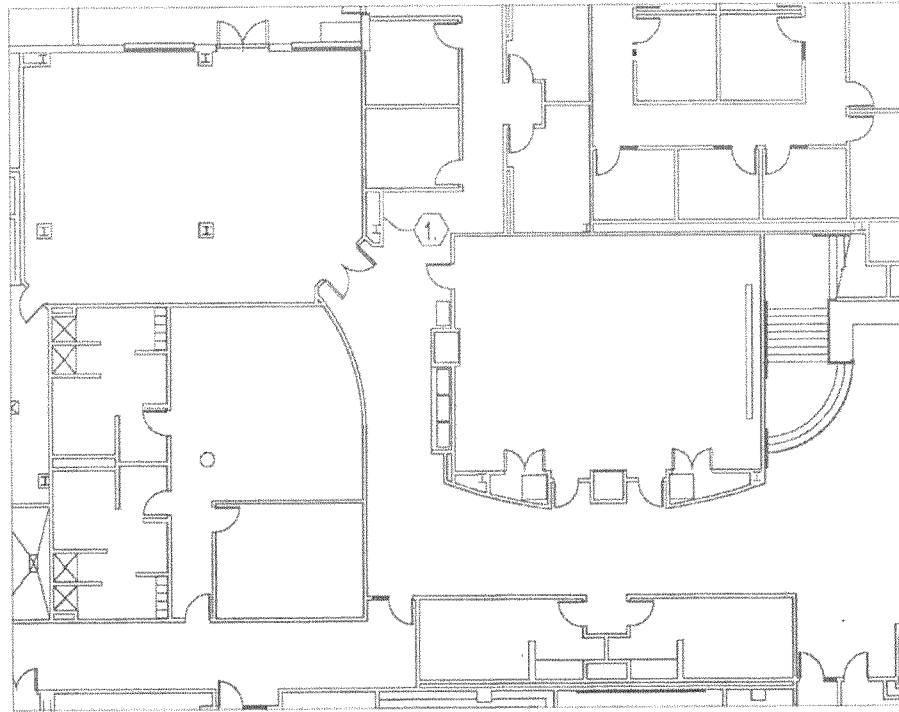
Measured by: Mary Nguyen  
Date: 18 March 2004

Occupant Information

① Point West Credit Union

Juvenile Justice Center - 311  
1401 NE 68th Avenue  
Portland, OR 97213

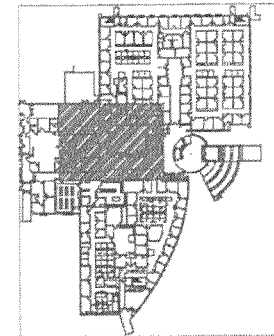
EXHIBIT B-4



First Floor

Measured by: Mary Nguyen  
Date: 17 March 2004

Key Plan

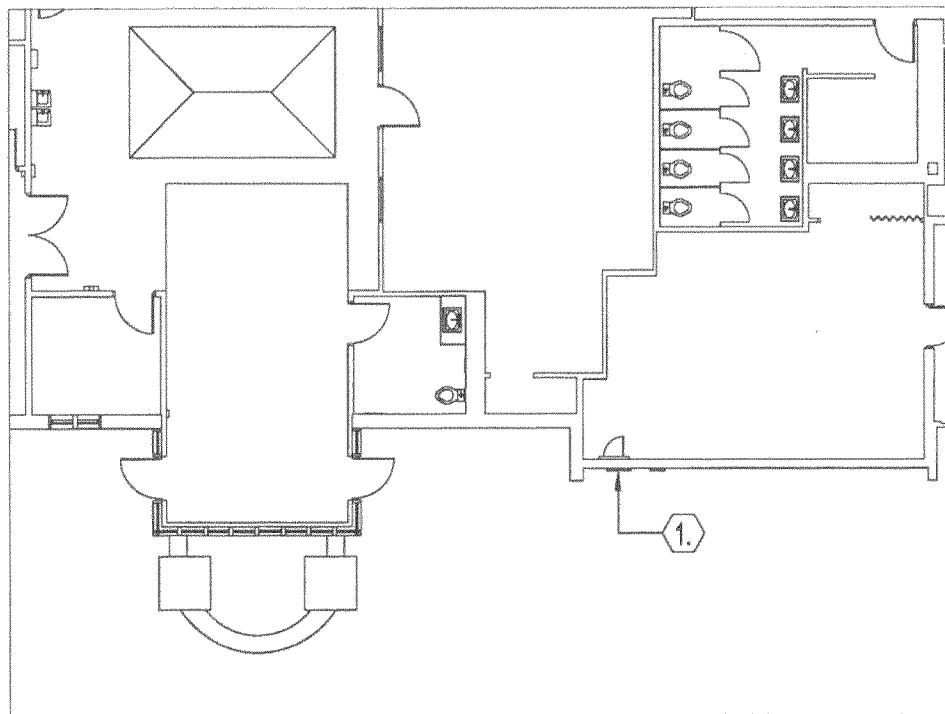


Tenant Information

① Point West Credit Union

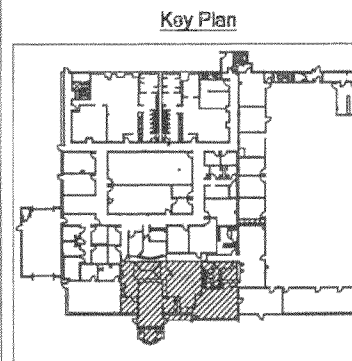
Penumbra Kelly Building  
4747 E. Burnside Street  
Portland, OR 97214

EXHIBIT B-5



First Floor

Measured by: Mary Nguyen  
Date: 17 March 2004

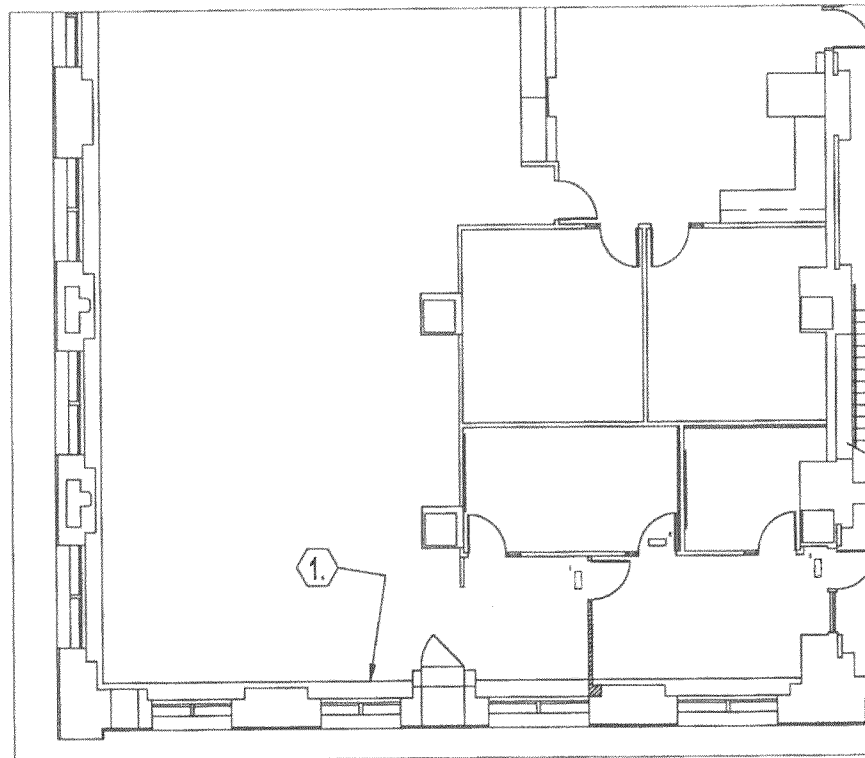


Occupant Information

① Point West Credit Union

**Multnomah Building - 503**  
501 SE Hawthorne Blvd.  
Portland, Oregon 97214

EXHIBIT B-6



First Floor

Measured by: Mary Nguyen  
Date: 15 March 2004

Key Plan

