



Multnomah County Oregon

# Board of Commissioners & Agenda

connecting citizens with information and services

## BOARD OF COMMISSIONERS

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Portland, Or 97214

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## APRIL 11 & 12, 2007 BOARD MEETINGS FASTLOOK AGENDA ITEMS OF INTEREST

Pg 2	8:30 a.m. Wednesday Executive Session
Pg 3	9:30 a.m. Thursday Public Comment
Pg 3	9:45 a.m. Thursday Resolution Adopting a Competitive Franchise Application Rule
Pg 3	10:00 a.m. Thursday Resolution Accepting the Recommendations of BIT Reform Workgroup
Pg 3	10:35 a.m. Thursday Resolution Approving a Purchase Option for Real Property Known as the Lincoln Building
Pg 4	10:50 a.m. Thursday Fiscal Year 2007 Third Quarter Financial Report and Update
Pg 4	1:30 a.m. Thursday Public Hearings on three Measure 37 Claims: Hardin; Ingram and Johnson

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

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Wednesday, April 11, 2007 - 8:30 AM  
Multnomah Building, Sixth Floor Commissioners Conference Room 635  
501 SE Hawthorne Boulevard, Portland

## **EXECUTIVE SESSION**

- E-1 The Multnomah County Board of Commissioners will meet in Executive Session Pursuant to ORS 192.660(2)(d),(e) and/or (h). Only Representatives of the News Media and Designated Staff are allowed to attend. News Media and All Other Attendees are Specifically Directed Not to Disclose Information that is the Subject of the Session. No Final Decision will be made in the Session. Presented by County Attorney Agnes Sowle. 1 HOUR REQUESTED.
- 

Thursday, April 12, 2007 - 9:30 AM  
Multnomah Building, First Floor Commissioners Boardroom 100  
501 SE Hawthorne Boulevard, Portland

## **REGULAR MEETING**

### **CONSENT CALENDAR - 9:30 AM** **DEPARTMENT OF COMMUNITY SERVICES**

- C-1 RESOLUTION Authorizing the Private Sale of a Tax Foreclosed Property to ALEXSANDR I. DOROFEY AND IVAN DOROFEY AND SILVIA D. MC CAW
- C-2 RESOLUTION Authorizing the Private Sale of a Tax Foreclosed Property to RANCE S. ISHIBASHI AND MARTHA N. ISHIBASHI
- C-3 Amendment 2 to the Corbett Hill Road Viaduct 2001 OTIA Expenditure Agreement with the Oregon Department of Transportation, County No. 4600003756 - ODOT No. 19,473

### **DEPARTMENT OF LIBRARY SERVICES**

- C-4 Budget Modification LIB-05 Reclassifying One Position in Neighborhood Libraries Division, North Portland Library, as Determined by the Class/Comp Unit of Central Human Resources

### **REGULAR AGENDA**

## **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 Briefing on the March Budget Workshops hosted by the Citizen Involvement Committee and Commission on Children, Families, and Community. Presented by Members of the Citizen Involvement Committee and Commission on Children, Families, and Community Staff. 15 MINUTES REQUESTED.
- R-2 Authorizing Settlement of Rick Magallanes Workers' Compensation Case
- R-3 RESOLUTION Adopting a Competitive Franchise Application Rule in Connection with any Cable Franchise Applications Submitted Under 47 CFR §76.41
- R-4 RESOLUTION Accepting the Recommendations of the Business Income Tax (BIT) Reform Workgroup to Ease the Burden on Small Business, Stabilize BIT Revenues, Improve Our Local Business Climate, and Directing the Chair to Implement BIT Reforms
- R-5 Approving a Memorandum of Understanding with the Portland Development Commission and Directing Facilities and Property Management to Proceed with an Intergovernmental Agreement for Release of Urban Renewal Funding to Reroute the Hawthorne Bridge West Bound Off-Ramp
- R-6 RESOLUTION Approving a Purchase Option for Real Property from BRCP/Unico Lincoln, LLC, ("Lincoln Building"), Located at 421 SW Oak Street, Portland, Oregon

## **DEPARTMENT OF HEALTH - 10:40 AM**

- R-7 NOTICE OF INTENT to Apply for Small Grants (\$100 to \$5,000) from Pharmaceutical Companies to Support the HIV Health Services Center Client Advisory Board Outreach Activities

**DEPARTMENT OF COUNTY MANAGEMENT - 10:45 AM**

- R-8 RESOLUTION Exempting the Emergency Notification Project for the Multnomah County Court House from Administrative Procedure FAC-1 Relating to Construction of Major Facilities Capital Projects
- R-9 Fiscal Year 2007 Third Quarter Financial Report and Update. Presented by Mark Campbell. 30 MINUTES REQUESTED.
- 

Thursday, April 12, 2007 - 1:30 PM  
Multnomah Building, First Floor Commissioners Boardroom 100  
501 SE Hawthorne Boulevard, Portland

**REGULAR MEETING - CONTINUED**

**DEPARTMENT OF COMMUNITY SERVICES - 1:30 PM**

- R-10 Continued Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by Elbridge and Dorothy Hardin for \$300,000 in Compensation or Relief from Regulations to Allow Development of a Single Family Residence on Each of Two Properties Located Adjacent to 4510 SE 302nd Avenue, Troutdale (Case File T1-06-079) [Continued from March 29, 2007]
- R-11 Public Hearing to consider and possibly act upon a Measure 37 Claim for Cheryl Ingram for up to \$144,000 in compensation or relief from regulations to allow for the development of a single family residence on property located south of SE Orient Drive, Gresham [T1S, R4E, Sec 19D, TL 300] (Case File T1-06-094)
- R-12 Public Hearing to consider and possibly act upon a Measure 37 Claim filed by Mark and Suzanne Johnson for Compensation ranging from \$341,300 - \$344,888 or the right to establish a farm help dwelling on land known as 16032 NW McNamee Road, Portland (Case File T1-06-144)

**BOARD COMMENT**

Opportunity (as time allows) for Commissioners to provide informational comments to Board and public on non-agenda items of interest or to discuss legislative issues.

# MULTNOMAH COUNTY 2007-2008 BUDGET WORK SESSIONS AND HEARINGS

## ALL MEETINGS ARE OPEN TO THE PUBLIC

Public testimony will be taken at the public hearings listed in red (*italic*) below. Unless otherwise noted, all sessions will be held in the Multnomah Building, First Floor Commissioners Boardroom 100, 501 SE Hawthorne, Portland. Contact Board Clerk Deb Bogstad 503 988-3277 for further information.

Cable coverage of the 2007-2008 budget work sessions, hearings and Thursday Board meetings are produced through MetroEast Community Media. Call 503 667-8848, extension 332 or log onto <http://www.mctv.org> for cable channel program information. The budget work sessions, hearings and Board meetings will be available for viewing via media streaming at <http://www.co.multnomah.or.us/cc/pastmeetings.shtml>. Contact Board Clerk Deb Bogstad 503 988-3277 for further information.

**Thu, April 12**  
9:30 a.m.

**Third Quarter Financial Report and General Fund  
Forecast Update**

### CABLE PLAYBACK INFO:

**Thursday, April 12 - 9:30 AM LIVE Channel 30**  
**Saturday, April 14 - 10:00 AM Channel 29**  
**Sunday, April 15 - 11:00 AM Channel 30**  
**Tuesday, April 17 - 8:00 PM Channel 29**

**Thu, April 19**  
9:30 a.m. to 12:00 p.m.

***Chair Ted Wheeler's 2007-2008 Executive Budget  
Message  
Public Hearing and Consideration of Resolution  
Approving 2007-2008 Executive Budget for  
Submission to Tax Supervising and Conservation  
Commission***

### CABLE PLAYBACK INFO:

**Thursday, April 19 - 9:30 AM LIVE Channel 30**  
**Saturday, April 21 - 10:00 AM Channel 29**  
**Sunday, April 22 - 11:00 AM Channel 30**  
**Tuesday, April 24 - 8:00 PM Channel 29**

**Tue, April 24**  
9:30 a.m. to 12:00 p.m.

**General Government Department Budget  
Presentations**

### CABLE PLAYBACK INFO:

**Tuesday, April 24 - 9:30 AM LIVE Channel 29**  
**Friday, April 27 - 8:00 PM Channel 29**

# MULTNOMAH COUNTY 2007-2008 BUDGET WORK SESSIONS AND HEARINGS

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**Saturday, April 28 - 2:00 PM Channel 29**

**Sunday, April 29 - 11:00 AM Channel 29**

**Tue, April 24**

**6:00 p.m. to 8:00 p.m.**

***Public Hearing on the 2007-2008 Multnomah County Budget - Multnomah County East Building, Sharron Kelley Conference Room, 600 NE 8th, Gresham***

### CABLE PLAYBACK INFO:

**Tuesday, April 24 - 6:00 PM LIVE Channel 29**

**Friday, April 27 - 10:30 PM Channel 29**

**Saturday, April 28 - 4:30 PM Channel 29**

**Sunday, April 29 - 1:30 PM Channel 29**

**Thu, April 26**

**9:30 a.m.**

***Public Hearing and Consideration of Approval of the 2007-2008 Dunthorpe Riverdale Sanitary Service District No. 1 Proposed Budget for Submittal to Tax Supervising and Conservation Commission***

***Public Hearing and Consideration of Approval the 2007-2008 Mid-County Street Lighting Service District No. 14 Proposed Budget for Submittal to Tax Supervising and Conservation Commission***

### CABLE PLAYBACK INFO:

**Thursday, April 26 - 9:30 AM LIVE Channel 30**

**Saturday, April 28 - 10:00 AM Channel 29**

**Sunday, April 29 - 11:00 AM Channel 30**

**Tuesday, May 1 - 8:00 PM Channel 29**

# MULTNOMAH COUNTY 2007-2008 BUDGET WORK SESSIONS AND HEARINGS

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**Tue, May 1**

**9:30 a.m. to 11:00 a.m.**

**Fiscal Year 2008 Facilities and Transportation  
Capital Program Briefing**

### CABLE PLAYBACK INFO:

**Tuesday, May 1 - 9:30 AM LIVE Channel 29**

**Friday, May 4 - 8:00 PM Channel 29**

**Saturday, May 5 - 2:00 PM Channel 29**

**Sunday, May 6 - 11:00 AM Channel 29**

**Tue, May 8**

**9:30 a.m. to 12:00 p.m.**

**Health and Human Services Department Budget  
Presentations**

### CABLE PLAYBACK INFO:

**Tuesday, May 8 - 9:30 AM LIVE Channel 29**

**Friday, May 11 - 8:00 PM Channel 29**

**Saturday, May 12 - 2:00 PM Channel 29**

**Sunday, May 13 - 11:00 AM Channel 29**

**Tue, May 8**

**6:00 p.m. to 8:00 p.m.**

**Public Hearing on the 2007-2008 Multnomah County  
Budget - North Portland Library Conference Room,  
512 N Killingsworth, Portland**

### CABLE PLAYBACK INFO:

**(No Live Coverage)**

**Friday, May 11 - 10:30 PM Channel 29**

**Saturday, May 12 - 4:30 PM Channel 29**

**Sunday, May 13 - 1:30 PM Channel 29**

# MULTNOMAH COUNTY 2007-2008 BUDGET WORK SESSIONS AND HEARINGS

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**Tue, May 15**

**9:30 a.m. to 12:00 p.m.**

**Public Safety Department Budget Presentations**

### CABLE PLAYBACK INFO:

**Tuesday, May 15 - 9:30 AM LIVE Channel 29**

**Friday, May 18 - 8:00 PM Channel 29**

**Saturday, May 19 - 2:00 PM Channel 29**

**Sunday, May 20 - 11:00 AM Channel 29**

**Tue, May 22**

**6:00 p.m. to 8:00 p.m.**

***Public Hearing on the 2007-2008 Multnomah County Budget - Multnomah Building, Commissioners Boardroom 100, 501 SE Hawthorne, Portland***

### CABLE PLAYBACK INFO:

**Tuesday, May 22 - 6:00 PM LIVE Channel 29**

**Friday, May 25 - 10:30 PM Channel 29**

**Saturday, May 26 - 4:30 PM Channel 29**

**Sunday, May 27 - 1:30 PM Channel 29**

**Wed, May 23**

**9:30 a.m. to 12:00 p.m.**

**Budget Work Session - Proposal and Review of Amendments**

### CABLE PLAYBACK INFO:

**Wednesday, May 23 - 9:30 AM LIVE Channel 29**

**Saturday, May 26 - 6:30 PM Channel 29**

**Sunday, May 27 - 3:30 PM Channel 29**

**Monday, May 28 - 8:00 PM Channel 29**

# MULTNOMAH COUNTY 2007-2008 BUDGET WORK SESSIONS AND HEARINGS

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**Tue, May 29**

**9:30 a.m. to 12:00 p.m.**

**Budget Work Session if needed**

### CABLE PLAYBACK INFO:

**Tuesday, May 29 - 9:30 AM LIVE Channel 29**

**Friday, June 1 - 8:00 PM Channel 29**

**Saturday, June 2 - 2:00 PM Channel 29**

**Sunday, June 3 - 11:00 AM Channel 29**

**Thu, Jun 7**

**9:30 a.m.**

***Public Hearing and Resolution Adopting the 2007-2008 Budget for Dunthorpe Riverdale Sanitary Service District No. 1 and Making Appropriations***  
***Public Hearing and Resolution Adopting the 2007-2008 Budget for Mid-County Street Lighting Service District No. 14 and Making Appropriations***

**Thu, Jun 7**

**10:00 a.m.**

***Tax Supervising and Conservation Commission Public Hearing on the 2006-2007 Multnomah County Supplemental Budget***  
***Tax Supervising and Conservation Commission Public Hearing on the Multnomah County 2007-2008 Budget***

**Thu, Jun 7**

**10:45 a.m. to 12:00 p.m.**

***Public Hearing and Resolution Adopting the 2006-2007 Multnomah County Supplemental Budget and Making Appropriations***

# MULTNOMAH COUNTY 2007-2008 BUDGET WORK SESSIONS AND HEARINGS

## ALL MEETINGS ARE OPEN TO THE PUBLIC

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***Public Hearing and Resolution Adopting the 2007-2008 Budget for Multnomah County Pursuant to ORS 294***

### CABLE PLAYBACK INFO:

Thursday, June 7 - 9:30 AM LIVE Channel 30  
Saturday, June 9 - 10:00 AM Channel 29  
Sunday, June 10 - 11:00 AM Channel 30  
Tuesday, June 12 - 8:00 PM Channel 29



# MULTNOMAH COUNTY OREGON

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

LISA NAITO • DISTRICT 3 COMMISSIONER

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## MEMORANDUM

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

FROM: Matthew Lieuallen  
Staff to Commissioner Lisa Naito

DATE: March 29, 2007

RE: April 12, 2007 Regular and Extended Board Meetings

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Naito will be participating by phone for the morning Board Meeting on April 12, 2007 and will be unable to participate for the extended afternoon session.

Thank you,

Matthew

**Matthew R. Lieuallen, JD**  
Office of Commissioner Lisa Naito  
501 SE Hawthorne Blvd., Suite 600  
Portland, OR 97214  
Phone: (503) 988-5217  
Fax: (503) 988-5262



**Maria Rojo de Steffey**  
Multnomah County Commissioner, District 1

Suite 600, Multnomah Building  
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Portland, Oregon 97214

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FAX: (503) 988-5440  
Email: district1@co.multnomah.or.us

## MEMORANDUM

TO: Chair Ted Wheeler  
Commissioner Jeff Cogen  
Commissioner Lisa Naito  
Commissioner Lonnie Roberts  
Clerk of the Board Deb Bogstad

FROM: April Fernandes - Staff Assistant to Commissioner Maria Rojo de Steffey

DATE: March 29, 2007

RE: Board Meeting extension Excuse Memo

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Commissioner Rojo de Steffey will be unable to attend the April 12, 2007 Board Meeting extension, but will be present for the regular Board Meeting.



**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST short form**

**Board Clerk Use Only**

Meeting Date: 04/12/07  
 Agenda Item #: C-1  
 Est. Start Time: 9:30 AM  
 Date Submitted: 04/27/07

**Agenda Title:** **RESOLUTION Authorizing the Private Sale of a Tax Foreclosed Property to ALEXSANDR I. DOROFEY AND IVAN DOROFEY AND SILVIA D. MC CAW**

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

**Date Requested:** April 12, 2007      **Time Requested:** Consent Item  
**Department:** Community Services      **Division:** Tax Title  
**Contact(s):** Gary Thomas  
**Phone:** 503-988-3590      **Ext.** 22591      **I/O Address:** 503/4/TT  
**Presenter(s):** Gary Thomas

**General Information**

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

The Tax Title Section is requesting the Board to approve the private sale of a tax foreclosed property to ALEXSANDR I. DOROFEY AND IVAN DOROFEY AND SILVIA D. MC CAW.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

The subject property is a rectangular shaped strip that came into county ownership through the foreclosure of delinquent tax liens on June 8, 1962. The parcel is more or less 16' x 150' and contains approximately 2,400 square feet. According to one of the adjacent owners, years ago before development took place in the area the subject parcel was a part of an alley of sorts that extended from SE 122<sup>nd</sup> Ave and took in the subject. Over the years the strip has been incorporated into some of the adjacent properties and with others, it has remained separate. The attached plat map, Exhibit A, shows a Tax Lot #9400, a strip approximately 15' x 45' located to the west of the subject. This parcel was a tax foreclosed property that the county sold at public auction, something the county no longer does, in 1983 and remains in ownership of the person, a California resident, who purchased the strip. The subject strip is located at the rear of the following four properties, 12405 & 12429 SE Stephens St and 12406 & 12430 SE Mill St.

Our office was contacted by the owners of the 12430 SE Mill St. property requesting to purchase the

subject strip. They wish to construct an additional single family residence on their property and need the area of a portion of the subject strip to build the house according to the City of Portland. Looking at Exhibit B an aerial photo of the property, it appears that conceivably, all four adjacent property owners could have an interest in the subject parcel. Our office sent a letter to all four adjacent owners informing them of the request that we received and asking if any of them also had an interest in purchasing the strip. The letters brought responses from two of the other adjacent owners. From conversations with them it was determined that a fence for the property at 12406 SE Mill backs up to the subject strip as does a fence for the property at 12429 SE Stephens. The only other adjacent owner who had an interest in the subject was Ms. Mc Caw who owns 12405 SE Stephens. After meeting with and having conversations with both adjacent owners, it was agreed to sell the subject strip to both parties, which is what we propose.

The attached Exhibit A, a plat map shows the location of the property. Exhibit B, an aerial photo, shows the parcel in relation to the adjacent properties.

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

This action affects our Vibrant Communities Program Offer by placing a tax foreclosed property back onto the tax roll.

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

The private sale will allow for the recovery of the delinquent taxes, fees, and expenses. The sale will also reinstate the property on the tax roll (see Exhibit C).

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

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

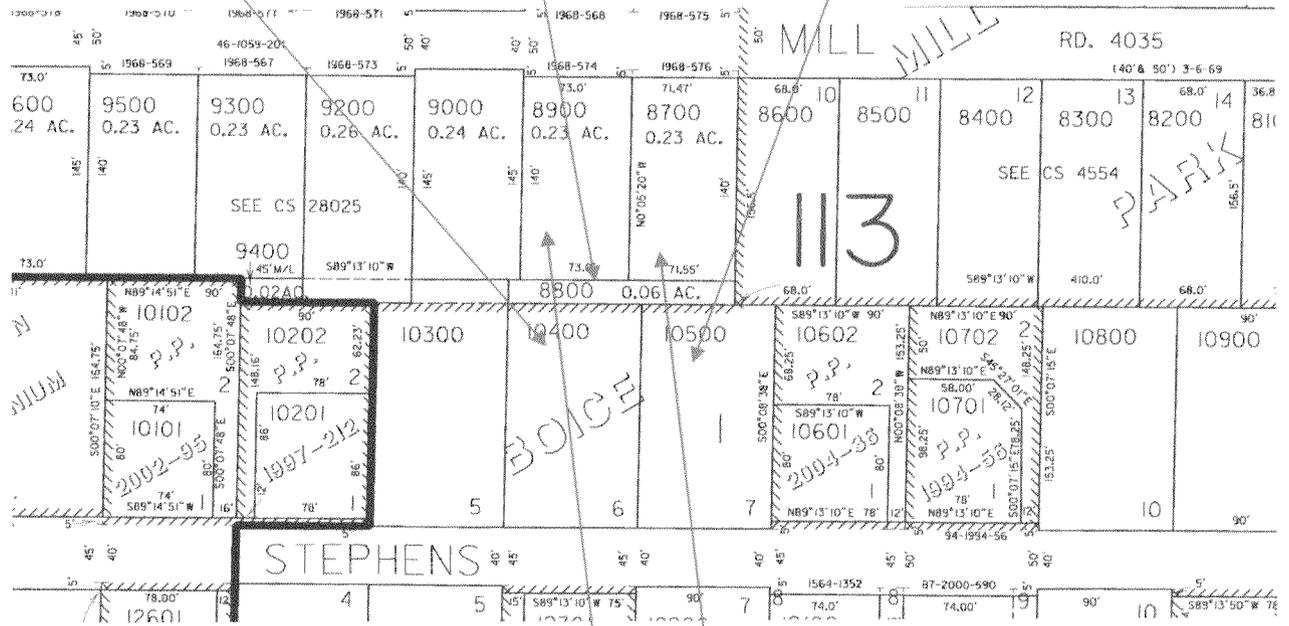
**5. Explain any citizen and/or other government participation that has or will take place.**

No citizen or government participation is anticipated.

# EXHIBIT A



12405 SE Stephens County owned strip 12429 SE Stephens



12406 SE Mill 12430 SE Mill

**EXHIBIT B**

County owned strip

12406 SE Mill

12430 SE Mill



12405 SE Stephens

12429 SE Stephens

**EXHIBIT C  
PROPOSED PROPERTY LISTED FOR PRIVATE SALE**

**LEGAL DESCRIPTION:**

In that certain TAX FORECLOSURE DEED dated June 8, 1962; recorded on June 8, 1962 at Book 2120 and Page 169 in the Multnomah County Deed Records; and more particularly described as item no 19, at Page 173 of said TAX FORECLOSURE DEED; EXCEPTING THEREFROM all such property conveyed to Philip A. Pieters and Edith A. Pieters by a deed dated September 13, 1966 and recorded on September 27, 1966 at Book 528 and Page 293 in the Multnomah County Deed Records; further EXCEPTING THEREFROM all such property conveyed to James Murray by a deed dated May 12, 1967 and recorded on May 24, 1967 at Book 563 and Page 157 in the Multnomah County Deed Records; and further EXCEPTING THEREFROM all such property conveyed to Melvin S. Komp and Geraldine R. Komp by a deed dated April 9, 1971 and recorded on April 15, 1971 at Book 782 and Page 577 in the Multnomah County Deed Records.

ADJACENT PROPERTY ADDRESS: 12405 SE Stephens St  
 TAX ACCOUNT NUMBER: R331917  
 GREENSPACE DESIGNATION: No designation  
 SIZE OF PARCEL: Approximately 2,400 square feet  
 ASSESSED VALUE: \$100

**ITEMIZED EXPENSES FOR TOTAL PRICE OF PRIVATE SALE**

BACK TAXES & INTEREST:	\$41.85
TAX TITLE MAINTENANCE COST & EXPENSES:	\$00.00
RECORDING FEE:	\$26.00
SUB-TOTAL	\$67.85
MINIMUM PRICE REQUEST OF PRIVATE SALE	\$1200.00

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**Required Signature**

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**Department/  
Agency Director:**

*M. Cecilia Johnson*

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**Date: 03/27/07**

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BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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

Authorizing the Private Sale of a Tax Foreclosed Property to ALEXSANDR I. DOROFEY AND IVAN DOROFEY AND SILVIA D. MC CAW

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

- a. Multnomah County acquired through the foreclosure of liens for delinquent real property taxes, the following described real property:

In that certain TAX FORECLOSURE DEED dated June 8, 1962; recorded on June 8, 1962 at Book 2120 and Page 169 in the Multnomah County Deed Records; and more particularly described as item no 19, at Page 173 of said TAX FORECLOSURE DEED; EXCEPTING THEREFROM all such property conveyed to Philip A. Pieters and Edith A. Pieters by a deed dated September 13, 1966 and recorded on September 27, 1966 at Book 528 and Page 293 in the Multnomah County Deed Records; further EXCEPTING THEREFROM all such property conveyed to James Murray by a deed dated May 12, 1967 and recorded on May 24, 1967 at Book 563 and Page 157 in the Multnomah County Deed Records; and further EXCEPTING THEREFROM all such property conveyed to Melvin S. Komp and Geraldine R. Komp by a deed dated April 9, 1971 and recorded on April 15, 1971 at Book 782 and Page 577 in the Multnomah County Deed Records.

- b. The property has an assessed value of \$100.
- c. Although no written confirmation from the City of Portland was obtained, the Tax Title Division is confident that the irregular shape and size of the property make it unsuitable for the construction or placement of a dwelling thereon under current zoning ordinances and building codes, as provided under ORS 275.225.
- d. Tax Title has received a \$1,200 payment from ALEXSANDR I. DOROFEY AND IVAN DOROFEY AND SYLVIA D. MC CAW, an amount the Board finds to be a reasonable price for the property in conformity with ORS 275.225.

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

1. The Chair on behalf of Multnomah County is authorized to execute a deed conveying to ALEXSANDR I. DOROFEY AND IVAN DOROFEY AND SILVIA D. MC CAW the above described real property within Multnomah County, Oregon.

ADOPTED this 12th day of April, 2007.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By \_\_\_\_\_  
Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY:  
M. Cecilia Johnson, Director, Dept. of Community Services  
Page 1 of 2- Resolution and Deed Authorizing Private Sale

Until a change is requested, all tax statements  
Shall be sent to the following address:  
SILVIA D. MC CAW  
12405 SE STEPHENS  
PORTLAND OR 97233

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

**Deed D072125 For R331917**

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, **Grantor**, conveys to ALEXSANDR I. DOROFEY and IVAN DOROFEY **Grantees**, (together an undivided one half interest); and to SILVIA D. MC CAW, **Grantee**, (an undivided one half interest) in the following described real property:

In that certain TAX FORECLOSURE DEED dated June 8, 1962; recorded on June 8, 1962 at Book 2120 and Page 169 in the Multnomah County Deed Records; and more particularly described as item no 19, at Page 173 of said TAX FORECLOSURE DEED; EXCEPTING THEREFROM all such property conveyed to Philip A. Pieters and Edith A. Pieters by a deed dated September 13, 1966 and recorded on September 27, 1966 at Book 528 and Page 293 in the Multnomah County Deed Records; further EXCEPTING THEREFROM all such property conveyed to James Murray by a deed dated May 12, 1967 and recorded on May 24, 1967 at Book 563 and Page 157 in the Multnomah County Deed Records; and further EXCEPTING THEREFROM all such property conveyed to Melvin S. Komp and Geraldine R. Komp by a deed dated April 9, 1971 and recorded on April 15, 1971 at Book 782 and Page 577 in the Multnomah County Deed Records.

The true consideration paid for this transfer is \$1,200.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352

IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of Commissioners the 12th day of April 2007, by authority of a Resolution of the Board of County Commissioners heretofore entered of record.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By \_\_\_\_\_  
Matthew O. Ryan, Assistant County Attorney

STATE OF OREGON                    )  
  ) ss  
COUNTY OF MULTNOMAH         )

This Deed was acknowledged before me this 12th day of April 2007, by Ted Wheeler, to me personally known, as Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.

\_\_\_\_\_  
Deborah Lynn Bogstad  
Notary Public for Oregon  
My Commission expires: 6/27/09

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 07-051**

Authorizing the Private Sale of a Tax Foreclosed Property to ALEXSANDR I. DOROFEY AND IVAN DOROFEY AND SILVIA D. MC CAW

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

- a. Multnomah County acquired through the foreclosure of liens for delinquent real property taxes, the following described real property:

In that certain TAX FORECLOSURE DEED dated June 8, 1962; recorded on June 8, 1962 at Book 2120 and Page 169 in the Multnomah County Deed Records; and more particularly described as item no 19, at Page 173 of said TAX FORECLOSURE DEED; EXCEPTING THEREFROM all such property conveyed to Philip A. Pieters and Edith A. Pieters by a deed dated September 13, 1966 and recorded on September 27, 1966 at Book 528 and Page 293 in the Multnomah County Deed Records; further EXCEPTING THEREFROM all such property conveyed to James Murray by a deed dated May 12, 1967 and recorded on May 24, 1967 at Book 563 and Page 157 in the Multnomah County Deed Records; and further EXCEPTING THEREFROM all such property conveyed to Melvin S. Komp and Geraldine R. Komp by a deed dated April 9, 1971 and recorded on April 15, 1971 at Book 782 and Page 577 in the Multnomah County Deed Records.

- b. The property has an assessed value of \$100.
- c. Although no written confirmation from the City of Portland was obtained, the Tax Title Division is confident that the irregular shape and size of the property make it unsuitable for the construction or placement of a dwelling thereon under current zoning ordinances and building codes, as provided under ORS 275.225.
- d. Tax Title has received a \$1,200 payment from ALEXSANDR I. DOROFEY AND IVAN DOROFEY AND SYLVIA D. MC CAW, an amount the Board finds to be a reasonable price for the property in conformity with ORS 275.225.

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

1. The Chair on behalf of Multnomah County is authorized to execute a deed conveying to ALEXSANDR I. DOROFEY AND IVAN DOROFEY AND SILVIA D. MC CAW the above described real property within Multnomah County, Oregon.

ADOPTED this 12th day of April, 2007.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
\_\_\_\_\_  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
\_\_\_\_\_  
Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY:

M. Cecilia Johnson, Director, Dept. of Community Services  
Page 1 of 2 - Resolution 07-051 and Deed Authorizing Private Sale

Until a change is requested, all tax statements  
Shall be sent to the following address:  
SILVIA D. MC CAW  
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MULTNOMAH COUNTY  
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503/4

**Deed D072125 For R331917**

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, **Grantor**, conveys to ALEXSANDR I. DOROFY and IVAN DOROFY **Grantees**, (together an undivided one half interest); and to SILVIA D. MC CAW, **Grantee**, (an undivided one half interest) in the following described real property:

In that certain TAX FORECLOSURE DEED dated June 8, 1962; recorded on June 8, 1962 at Book 2120 and Page 169 in the Multnomah County Deed Records; and more particularly described as item no 19, at Page 173 of said TAX FORECLOSURE DEED; EXCEPTING THEREFROM all such property conveyed to Philip A. Pieters and Edith A. Pieters by a deed dated September 13, 1966 and recorded on September 27, 1966 at Book 528 and Page 293 in the Multnomah County Deed Records; further EXCEPTING THEREFROM all such property conveyed to James Murray by a deed dated May 12, 1967 and recorded on May 24, 1967 at Book 563 and Page 157 in the Multnomah County Deed Records; and further EXCEPTING THEREFROM all such property conveyed to Melvin S. Komp and Geraldine R. Komp by a deed dated April 9, 1971 and recorded on April 15, 1971 at Book 782 and Page 577 in the Multnomah County Deed Records.

The true consideration paid for this transfer is \$1,200.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352

IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of Commissioners the 12th day of April 2007, by authority of a Resolution of the Board of County Commissioners heretofore entered of record.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By \_\_\_\_\_  
Matthew O. Ryan, Assistant County Attorney

STATE OF OREGON                    )  
  ) ss  
COUNTY OF MULTNOMAH         )

This Deed was acknowledged before me this 12th day of April 2007, by Ted Wheeler, to me personally known, as Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.

\_\_\_\_\_  
Deborah Lynn Bogstad  
Notary Public for Oregon  
My Commission expires: 6/27/09

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IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of Commissioners the 12th day of April 2007, by authority of a Resolution of the Board of County Commissioners heretofore entered of record.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Ted Wheeler, Chair

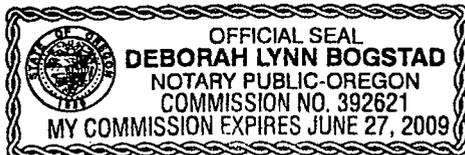
REVIEWED:

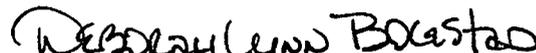
AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Matthew O. Ryan, Assistant County Attorney

STATE OF OREGON                    )  
  ) ss  
COUNTY OF MULTNOMAH         )

This Deed was acknowledged before me this 12th day of April 2007, by Ted Wheeler, to me personally known, as Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.



  
Deborah Lynn Bogstad  
Notary Public for Oregon  
My Commission expires: 6/27/09



**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST short form**

**Board Clerk Use Only**

**Meeting Date:** 04/12/07  
**Agenda Item #:** C-2  
**Est. Start Time:** 9:30 AM  
**Date Submitted:** 03/29/07

**Agenda Title:** **RESOLUTION Authorizing the Private Sale of a Tax Foreclosed Property to RANCE S. ISHIBASHI AND MARTHA N. ISHIBASHI**

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

<b>Date Requested:</b>	<u>April 12, 2007</u>	<b>Time Requested:</b>	<u>Consent Item</u>
<b>Department:</b>	<u>Community Services</u>	<b>Division:</b>	<u>Tax Title</u>
<b>Contact(s):</b>	<u>Gary Thomas</u>		
<b>Phone:</b>	<u>503-988-3590</u>	<b>Ext.</b>	<u>22591</u>
<b>Presenter(s):</b>	<u>Gary Thomas</u>		
<b>I/O Address:</b>	<u>503/4/TT</u>		

**General Information**

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

The Tax Title Section is requesting the Board to approve the private sale of a tax foreclosed property to RANCE S. ISHIBASHI AND MARTHA N. ISHIBASHI.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

The subject property is a triangular shaped parcel that came into county ownership through the foreclosure of delinquent tax liens on October 3, 1994. The parcel is more or less 11 feet wide at the base, 58' along the east line and 59.8 feet along the west line. It contains approximately 318 square feet. The property is located between 12138 and 12152 SE Knapp LN.

The parcel appears to have been created in 1974. The house at 12138 SE Knapp LN was constructed in 1971. In 1970, the lot sold and shortly after the lot line was adjusted to include 9 feet of a portion of the adjacent lot. Exhibit A is a copy of a survey completed in 1974. The dotted line is the original lot line between Lots 2 and 3. A 1970 deed moved the north portion of Lot 2 to the east by 9 feet. This was possibly done to accommodate where the house on Lot 3 was constructed. In a 1974 deed the subject property was described in which the south corner of Lot 2 was moved to the west by 11 feet. This was presumably done to compensate for the loss in area of Lot 2 in 1970.

It wasn't until 1991 when a State map correction was made that the subject property became a separate tax lot. A value was assigned, tax bill generated to the former owner of record for whom there was no known address, and it eventually came into county ownership through foreclosure. We propose to sell the parcel to the owner of the property at 12152 SE Knapp LN that is Lot 2 on the attached survey. The survey shows that the subject parcel was to be a part of Lot 2 and that is whom we are selling it. (A plat map is not attached because 12138 and 12152 SE Knapp LN are on separate plat maps).

Exhibit B, an aerial photo, shows the parcel in relation to the two adjacent properties.

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

This action affects our Vibrant Communities Program Offer by placing a tax foreclosed property back onto the tax roll.

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

The private sale will allow for the recovery of a portion of the delinquent taxes, fees, and expenses. The sale will also reinstate the property on the tax roll (see Exhibit C).

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

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

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

No citizen or government participation is anticipated.

# EXHIBIT A

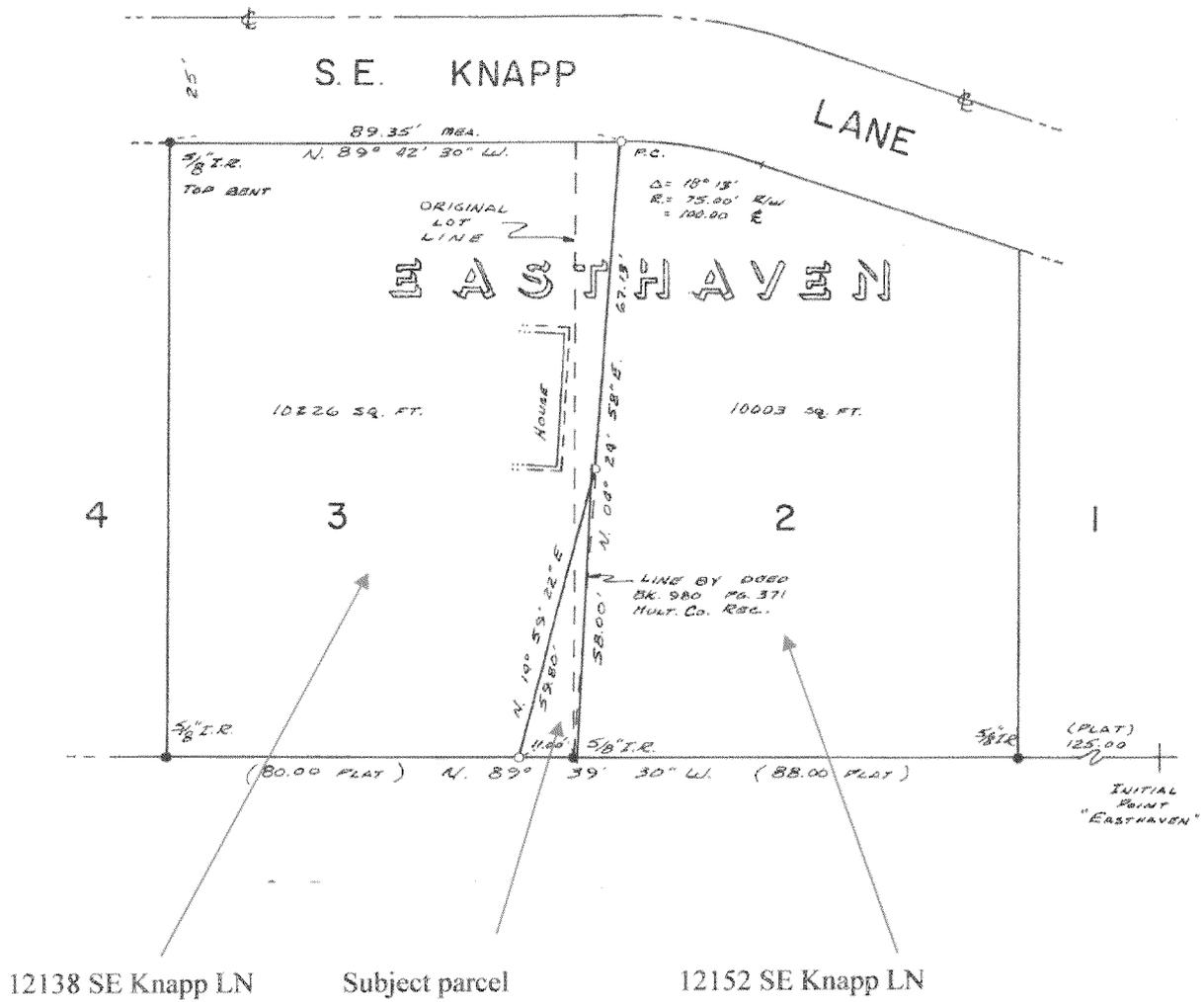


EXHIBIT B



12138 SE Knapp LN County parcel

12152 SE Knapp LN

**EXHIBIT C**  
**PROPOSED PROPERTY LISTED FOR PRIVATE SALE**

**LEGAL DESCRIPTION:**

A tract of land in the Northwest One-Quarter of Section 23, Township 1 South, Range 2 East, of the Willamette Meridian, Multnomah County, Oregon, Being a portion of Lots 2 and 3 Easthaven, described as follows:

A portion of Lot 2, Easthaven described as: Beginning at the Northwest corner of said Lot 2; thence Easterly along the Northerly line of said Lot 2, a distance of 9.00 feet; thence Southerly to the Southwest corner of said Lot 2; thence Northerly along the Westerly line of said Lot 2 to the point of beginning. Together with all of Lot 3, Easthaven.

Excepting from the above described, all that part lying Westerly of a line described as follows:

Beginning at the Northeast corner of said Lot 3, Easthaven; thence thence Easterly along the Northerly line of said Lot 2, a distance of 9.00 feet to the true point of beginning of the line herein described; thence S04°24'53"W, a distance of 67.13 feet to an iron rod; thence S14°59'22"W, a distance of 59.80 feet to an iron rod in the South line of said Lot and terminus of the herein described line.

ADJACENT PROPERTY ADDRESS: 12152 SE Knapp LN

TAX ACCOUNT NUMBER: R152039

GREENSPACE DESIGNATION: No designation

SIZE OF PARCEL: Approximately 318 square feet

ASSESSED VALUE: \$300

**ITEMIZED EXPENSES FOR TOTAL PRICE OF PRIVATE SALE**

BACK TAXES & INTEREST:	\$196.60
TAX TITLE MAINTENANCE COST & EXPENSES:	\$100.00
RECORDING FEE:	\$26.00
SUB-TOTAL	\$322.60
MINIMUM PRICE REQUEST OF PRIVATE SALE	\$300.00

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**Required Signature**

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**Department/  
Agency Director:**

*M. Cecilia Johnson*

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**Date:** 03/28/07

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BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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

Authorizing the Private Sale of a Tax Foreclosed Property to RANCE S. ISHIBASHI AND MARTHA N. ISHIBASHI

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

- a. Multnomah County acquired the real property described in Exhibit A through the foreclosure of liens for delinquent real property taxes.
- b. The property has an assessed value of \$300.
- c. Although no written confirmation from the City of Portland was obtained, the Tax Title Division is confident that the shape and size of the property, approximately 318 square feet make it unsuitable for the construction or placement of a dwelling thereon under current zoning ordinances and building codes, as provided under ORS 275.225.
- d. RANCE S. ISHIBASHI AND MARTHA N. ISHIBASHI have agreed to pay \$300, an amount the Board finds to be a reasonable price for the property in conformity with ORS 275.225.

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

1. Upon Tax Title's receipt of the payment of \$300 the Chair on behalf of Multnomah County is authorized to execute a deed, number D072131 conveying to RANCE S. ISHIBASHI AND MARTHA N. ISHIBASHI the real property described in the attached Exhibit A.

ADOPTED this 12th day of April, 2007.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By \_\_\_\_\_  
Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY:  
M. Cecilia Johnson, Director, Dept. of Community Services  
Page 1 of 4 - Resolution and Deed Authorizing Private Sale

## EXHIBIT A

A tract of land in the Northwest One-Quarter of Section 23, Township 1 South, Range 2 East, of the Willamette Meridian, Multnomah County, Oregon, Being a portion of Lots 2 and 3 Easthaven, described as follows:

A portion of Lot 2, Easthaven described as: Beginning at the Northwest corner of said Lot 2; thence Easterly along the Northerly line of said Lot 2, a distance of 9.00 feet; thence Southerly to the Southwest corner of said Lot 2; thence Northerly along the Westerly line of said Lot 2 to the point of beginning. Together with all of Lot 3, Easthaven.

Excepting from the above described, all that part lying Westerly of a line described as follows:

Beginning at the Northeast corner of said Lot 3, Easthaven; thence thence Easterly along the Northerly line of said Lot 2, a distance of 9.00 feet to the true point of beginning of the line herein described; thence S04°24'53"W, a distance of 67.13 feet to an iron rod; thence S14°59'22"W, a distance of 59.80 feet to an iron rod in the South line of said Lot and terminus of the herein described line.

Until a change is requested, all tax statements shall be sent to the following address:  
RANCE S. ISHIBASHI AND  
MARTHA N. ISHIBASHI  
12152 SE KNAPP LN  
PORTLAND, OR 97266

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

**Deed D072131 for R152039**

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to RANCE S. ISHIBASHI AND MARTHA N. ISHIBASHI, Trustees, under the ISHIBASHI LIVING TRUST, dated October 9, 2001, Grantees, the real property described in the attached Exhibit A.

The true consideration paid for this transfer is \$300.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352

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BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By \_\_\_\_\_  
Matthew O. Ryan, Assistant County Attorney

STATE OF OREGON            )  
  ) ss  
COUNTY OF MULTNOMAH    )

This Deed was acknowledged before me this 12th day of April 2007, by Ted Wheeler, to me personally known, as Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.

\_\_\_\_\_  
Deborah Lynn Bogstad  
Notary Public for Oregon  
My Commission expires: 6/27/09

## EXHIBIT A

### (Deed D072131 & Tax Account R152039)

A tract of land in the Northwest One-Quarter of Section 23, Township 1 South, Range 2 East, of the Willamette Meridian, Multnomah County, Oregon, Being a portion of Lots 2 and 3 Easthaven, described as follows:

A portion of Lot 2, Easthaven described as: Beginning at the Northwest corner of said Lot 2; thence Easterly along the Northerly line of said Lot 2, a distance of 9.00 feet; thence Southerly to the Southwest corner of said Lot 2; thence Northerly along the Westerly line of said Lot 2 to the point of beginning. Together with all of Lot 3, Easthaven.

Excepting from the above described, all that part lying Westerly of a line described as follows:

Beginning at the Northeast corner of said Lot 3, Easthaven; thence thence Easterly along the Northerly line of said Lot 2, a distance of 9.00 feet to the true point of beginning of the line herein described; thence S04°24'53"W, a distance of 67.13 feet to an iron rod; thence S14°59'22"W, a distance of 59.80 feet to an iron rod in the South line of said Lot and terminus of the herein described line.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 07-052**

Authorizing the Private Sale of a Tax Foreclosed Property to RANCE S. ISHIBASHI AND MARTHA N. ISHIBASHI

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

- a. Multnomah County acquired the real property described in Exhibit A through the foreclosure of liens for delinquent real property taxes.
- b. The property has an assessed value of \$300.
- c. Although no written confirmation from the City of Portland was obtained, the Tax Title Division is confident that the shape and size of the property, approximately 318 square feet make it unsuitable for the construction or placement of a dwelling thereon under current zoning ordinances and building codes, as provided under ORS 275.225.
- d. RANCE S. ISHIBASHI AND MARTHA N. ISHIBASHI have agreed to pay \$300, an amount the Board finds to be a reasonable price for the property in conformity with ORS 275.225.

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

1. Upon Tax Title's receipt of the payment of \$300 the Chair on behalf of Multnomah County is authorized to execute a deed, number D072131 conveying to RANCE S. ISHIBASHI AND MARTHA N. ISHIBASHI the real property described in the attached Exhibit A.

ADOPTED this 12th day of April, 2007.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY:

M. Cecilia Johnson, Director, Dept. of Community Services

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503/4

**Deed D072131 for R152039**

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to RANCE S. ISHIBASHI AND MARTHA N. ISHIBASHI, Trustees, under the ISHIBASHI LIVING TRUST, dated October 9, 2001, Grantees, the real property described in the attached Exhibit A.

The true consideration paid for this transfer is \$300.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352

IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of Commissioners the 12th day of April 2007, by authority of a Resolution of the Board of County Commissioners heretofore entered of record.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By \_\_\_\_\_  
Matthew O. Ryan, Assistant County Attorney

STATE OF OREGON                    )  
  ) ss  
COUNTY OF MULTNOMAH         )

This Deed was acknowledged before me this 12th day of April 2007, by Ted Wheeler, to me personally known, as Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.

\_\_\_\_\_  
Deborah Lynn Bogstad  
Notary Public for Oregon  
My Commission expires: 6/27/09

## EXHIBIT A

### (Deed D072131 & Tax Account R152039)

A tract of land in the Northwest One-Quarter of Section 23, Township 1 South, Range 2 East, of the Willamette Meridian, Multnomah County, Oregon, Being a portion of Lots 2 and 3 Easthaven, described as follows:

A portion of Lot 2, Easthaven described as: Beginning at the Northwest corner of said Lot 2; thence Easterly along the Northerly line of said Lot 2, a distance of 9.00 feet; thence Southerly to the Southwest corner of said Lot 2; thence Northerly along the Westerly line of said Lot 2 to the point of beginning. Together with all of Lot 3, Easthaven.

Excepting from the above described, all that part lying Westerly of a line described as follows:

Beginning at the Northeast corner of said Lot 3, Easthaven; thence thence Easterly along the Northerly line of said Lot 2, a distance of 9.00 feet to the true point of beginning of the line herein described; thence S04°24'53"W, a distance of 67.13 feet to an iron rod; thence S14°59'22"W, a distance of 59.80 feet to an iron rod in the South line of said Lot and terminus of the herein described line.

Until a change is requested, all tax statements shall be sent to the following address:  
RANCE S. ISHIBASHI AND  
MARTHA N. ISHIBASHI  
12152 SE KNAPP LN  
PORTLAND, OR 97266

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

**Deed D072131 for R152039**

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to RANCE S. ISHIBASHI AND MARTHA N. ISHIBASHI, Trustees, under the ISHIBASHI LIVING TRUST, dated October 9, 2001, Grantees, the real property described in the attached Exhibit A.

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IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of Commissioners the 12th day of April 2007, by authority of a Resolution of the Board of County Commissioners heretofore entered of record.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Ted Wheeler, Chair

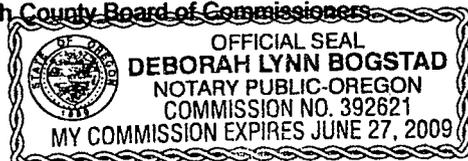
REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Matthew O. Ryan, Assistant County Attorney

STATE OF OREGON                    )  
  ) ss  
COUNTY OF MULTNOMAH        )

This Deed was acknowledged before me this 12th day of April 2007, by Ted Wheeler, to me personally known, as Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.



  
Deborah Lynn Bogstad  
Notary Public for Oregon  
My Commission expires: 6/27/09

## EXHIBIT A

### (Deed D072131 & Tax Account R152039)

A tract of land in the Northwest One-Quarter of Section 23, Township 1 South, Range 2 East, of the Willamette Meridian, Multnomah County, Oregon, Being a portion of Lots 2 and 3 Easthaven, described as follows:

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**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST (short form)**

**Board Clerk Use Only**

Meeting Date: 04/12/07  
 Agenda Item #: C-3  
 Est. Start Time: 9:30 AM  
 Date Submitted: 03/29/07

**Agenda Title:** **Amendment 2 to the Corbett Hill Road Viaduct 2001 OTIA Expenditure Agreement with the Oregon Department of Transportation, County No. 4600003756 - ODOT No. 19,473**

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

<b>Requested Meeting Date:</b>	<u>April 12, 2007</u>	<b>Amount of Time Needed:</b>	<u>Consent Calendar</u>
<b>Department:</b>	<u>Community Services</u>	<b>Division:</b>	<u>Land Use &amp; Trans Program</u>
<b>Contact(s):</b>	<u>Harold Maxa</u>		
<b>Phone:</b>	<u>(503) 988-5050</u>	<b>Ext.</b>	<u>29627</u>
<b>Presenter(s):</b>	<u>N/A</u>	<b>I/O Address:</b>	<u>455</u>

**General Information**

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

The Department of Community Services-Land Use and Transportation Program recommends approval of Amendment No. 2 to the 2001 Oregon Transportation Investment Act Agreement (OTIA) concerning Corbett Hill Road Viaduct (Br. #51C11) to revise completion dates and to increase the OTIA funding portion.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

This amendment addresses two changes to the Agreement with the State.

1. This project requires a three month closure of Corbett Hill Road. This closure was postponed in September 2006 due to a conflicting emergency road closure by ODOT, which negatively impacted emergency vehicle response time to I-84. This contract amendment extends the completion date of the project to April 15, 2008.

The Corbett Hill Viaduct Replacement Project became eligible for additional funding from OTIA. This amendment increases the OTIA funding portion of this project by \$150,000.

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

This action increases the money available to the County from outside sources and lessens the potential impact of the project on the County's Road funds.

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

There are no new legal and/or policy issues due to this amendment.

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

Multnomah County has held a numerous community meeting and utilized direct mailings to inform the public of this project. This project is currently under construction.

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**Required Signature**

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**Elected Official or  
Department/  
Agency Director:**



M. Cecilia Johnson

---

**Date: 03/28/07**

---

**BOGSTAD Deborah L**

---

**From:** KRAMER Cathey M  
**Sent:** Wednesday, March 28, 2007 10:38 AM  
**To:** ISLEY Sheila L  
**Cc:** MAESTRE Robert A  
**Subject:** County Attorney Approval - Corbett Hill Viaduct IGA Amen No.2

At Robert's request, I am forwarding to you Matt Ryan's approval of ODOT's IGA Amendment No. 2 (Corbett Hill Road) Following notification by Harold Maxa, ODOT then created and submitted the originals of the IGA in their blue-back format, which are attached to the Consent Calendar APR packet prepared for ratification and signatures by the County. Cathey

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

**From:** RYAN Matthew O  
**Sent:** Thursday, March 01, 2007 12:52 PM  
**To:** MAXA Harold C  
**Subject:** RE: Corbett Hill Viaduct IGA Amendment No.2

Harold,  
 I'm sorry I thought I had already done this. The Amendment 2 is ok.

Matthew O. Ryan  
 Assistant County Attorney  
 Multnomah County, Oregon  
 Tel: 503-988-3138; Fax: 503-988-3377  
[matthew.o.ryan@co.multnomah.or.us](mailto:matthew.o.ryan@co.multnomah.or.us)

CONFIDENTIALITY: This email transmission may contain confidential and privileged information. The information contained herein is intended for the addressee only. If you are not the addressee, please do not review, disclose, copy or distribute this transmission. If you have received this transmission in error, please contact the sender immediately.

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

**From:** MAXA Harold C  
**Sent:** Thursday, March 01, 2007 12:39 PM  
**To:** RYAN Matthew O  
**Subject:** Corbett Hill Viaduct IGA Amendment No.2

Matt,

Have you had a chance to review the Corbett Hill Viaduct IGA Amendment 2?

Changes to the contract include new completion dates and the addition of \$150,000 in ODOT (OTIA) funding?

Thanks,

Harold

Harold C. Maxa, P.E.  
 Project Manager  
 MULTNOMAH COUNTY OREGON  
 Department of Community Services  
 Land Use and Transportation Program  
 1600 SE 190th Avenue

4/5/2007

# MULTNOMAH COUNTY CONTRACT APPROVAL FORM

Contract #: 4600003756

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

Amendment #: 2

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 checked="" type="checkbox"/> PCRB Contracts <input type="checkbox"/> Maintenance Agreements <input type="checkbox"/> Licensing Agreements <input type="checkbox"/> Public Works Construction Contracts  <input type="checkbox"/> Architectural & Engineering Contracts <input type="checkbox"/> Revenue Contracts <input type="checkbox"/> Grant Contracts <input type="checkbox"/> Non-Expenditure Contracts	<input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> 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 type="checkbox"/> Non-Expenditure <input checked="" type="checkbox"/> Revenue  <input type="checkbox"/> Interdepartmental Contracts

Department: Community Services Division: Land Use & Trans Program Date: 3/20/07  
 Originator: Harold Maxa Phone: x29627 Bldg/Rm: 455/Annex  
 Contact: Cathey Kramer Phone: x22589 Bldg/Rm: 455/Annex

Description of Contract: Amendment No. 2 to Intergovernmental Agreement No. 19,473 between the County and ODOT, due to an increase of \$150,000 in funding available for the Corbett Hill Viaduct (Br. #51C11) Replacement Project from the Oregon Transportation Investment Act (OTIA) Program and to extend the completion date. There is no additional expenditure by the County as a result of Amendment No. 2.

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

Contractor: Oregon Department of Transportation - Region 1  
 Address: 123 NW Flanders St.  
 City/State: Portland OR  
 ZIP Code: 97209-4037  
 Phone: (503) 731-8277 (Devorah Hannah-Contr/Agrmt Unit)

Remittance address \_\_\_\_\_  
 (If different)

Employer ID# or SS#: N/A  
 Contract Effective Date: 11/21/02 Term Date: 1/19/08  
 Amendment Effect Date: 4/12/07 New Term: 4/15/08

Payment Schedule / Terms  
 Lump Sum \$ \_\_\_\_\_  
 Monthly \$ \_\_\_\_\_  
 Other \$ Invoice  
 Due on Receipt  
 Net 30  
 Other

Original Contract Amount	\$806,723.00
Total Amt of Previous Amendments	\$0
Amount of Amendment	\$150,000.00
<b>Total Amount of Agreement \$</b>	<b>\$956,723.00</b>

Requirements Funding Info:  
 Original Requirements Amount \$ \_\_\_\_\_  
 Total Amt of Previous Amendments \$ \_\_\_\_\_  
 Requirements Amount Amendment \$ \_\_\_\_\_  
 Total Amount of Requirements \$ \_\_\_\_\_

**REQUIRED SIGNATURES:**

Department Manager: RM M. Cecilia Johnson  
 Purchasing Manager: \_\_\_\_\_  
 County Attorney: Matthew C. Ryan  
 County Chair: RD WHEELER  
 Sheriff: \_\_\_\_\_  
 Contract Administration: \_\_\_\_\_

DATE: 3/28/07  
 DATE: \_\_\_\_\_  
 DATE: 4.12.07  
 DATE: 4.12.07  
 DATE: \_\_\_\_\_

APPROVED: MULTNOMAH COUNTY  
 BOARD OF COMMISSIONERS  
 AGENDA # C-3 DATE 04.12.07  
 DEBORAH L. BOGSTAD, BOARD CLERK

COMMENTS: WBS: ROADPC0404D300

**AMENDMENT NO. 2**  
**2001 OREGON TRANSPORTATION INVESTMENT ACT AGREEMENT**  
**Corbett Hill Road Viaduct (Br. # 51C11)**

The State of Oregon, acting by and through its Department of Transportation, hereinafter referred to as "ODOT", and Multnomah County, acting by and through its elected officials, hereinafter referred to as "Agency", entered into an Agreement on December 2, 2002. Said Agreement covers Agency's OTIA Project to replace the Corbett Hill Road Viaduct structure. The Agreement was amended on May 8, 2006 to revise the Project's key milestones and dates for the Project.

It has now been determined by ODOT and Agency that the Agreement referenced above, although remaining in full force and effect, shall be again amended to add additional funding to the Project and to revise the construction and Project completion dates. The Project was delayed due to an unfavorable bidding environment and emergency projects on either end of the highway of this Project's location. This would have caused the only two accesses to the community to have been closed if the County proceeded as scheduled. Said Agreements shall be amended as follows:

**Paragraph 2 of Recitals, Page 1, which reads:**

2. The Oregon Transportation Commission selected the projects to be funded under the 2001 OTIA Program at its January 16, 2002 meeting. This selection included Agency's project, Corbett Hill Road Viaduct, as described in Exhibit A.

**Shall be deleted in its entirety and amended to read:**

2. The Oregon Transportation Commission selected the projects to be funded under the 2001 OTIA Program at its January 16, 2002 meeting. This selection included Agency's project, Corbett Hill Road Viaduct, as described in Revised Exhibit "A".

**Paragraph 1 of Terms of Agreement, Page 1, which reads:**

1. Agency shall replace the Corbett Hill Road Viaduct structure, hereinafter referred to as "Project". A Project description and budget are shown on Exhibit "A", and a sketch map showing the location and approximate limits of the Project is shown on Exhibit "B", attached hereto and by this reference made a part hereof.

Agreement No. 19,473  
Multnomah County

**Shall be deleted in its entirety and amended to read:**

1. Agency shall replace the Corbett Hill Road Viaduct structure, hereinafter referred to as "Project". A Project description and budget are shown on Revised Exhibit "A", and a sketch map showing the location and approximate limits of the Project is shown on Exhibit "B", attached hereto and by this reference made a part hereof.

**Paragraph 2 of Terms of Agreement, Page 1, which reads:**

2. The total estimated cost of the Project is \$1,046,723. The budget is shown on Exhibit "A".

**Shall be deleted in its entirety and amended to read:**

2. The total estimated cost of the Project is \$1,196,723. The budget is shown on Revised Exhibit "A".

**Paragraph 3 of Terms of Agreement, Page 2, which reads:**

3. 2001 OTIA Program funds shall be limited to \$806,723. Agency shall provide \$240,000 for preliminary engineering and shall be responsible for all remaining costs in excess of the 2001 OTIA Program funded amount for this Project.

**Shall be deleted in its entirety and amended to read:**

3. 2001 OTIA Program funds shall be limited to \$956,723. Agency shall provide \$240,000 for preliminary engineering and shall be responsible for all remaining costs in excess of the 2001 OTIA Program funded amount for this Project.

**Paragraph 4a of Agency Obligations, Page 3, which reads:**

4 a. Agency shall submit documentation to ODOT's Project Liaison that shows that Agency has met Project key milestones. The Project key milestones, dates, and required documentation are shown below:

**Right of Way Acquisition: October 13, 2004**

**Documentation:** Letter from Agency's legal counsel certifying that 1) the right of way needed for the project has been obtained and 2) the right-of-way acquisition has been completed in accordance with those certain right of way requirements contained in Agency Obligations, paragraph 1, of this agreement.

**Land Use Permits: October 13, 2004**

**Documentation:** Letter from Agency indicating that all Land Use Permits required for final design have been obtained.

Agreement No. 19,473  
Multnomah County

**Final Plans / Biddable Engineering Documents: February 28, 2006**

**Documentation:** A copy of completed Project plans, specifications and cost estimates.

**Contract Advertisement and Award: May 28, 2006**

**Documentation:** A copy of the Award of Contract submitted to the Bureau of Labor and Industries.

**Construction Completion: November 30, 2006**

**Documentation:** A letter from Agency indicating that construction is substantially complete.

**Project Completion: January 31, 2007**

**Documentation:** Letter from Agency indicating that the Project is complete and open to traffic, accompanied by Agency's final billing to ODOT."

**Shall be deleted in its entirety and amended to read:**

4 a. Agency shall submit documentation to ODOT's Project Liaison that shows that Agency has met Project key milestones. The Project key milestones, dates, and required documentation are shown below:

**Right of Way Acquisition: October 13, 2004**

**Documentation:** Letter from Agency's legal counsel certifying that 1) the right of way needed for the project has been obtained and 2) the right-of-way acquisition has been completed in accordance with those certain right of way requirements contained in Agency Obligations, paragraph 1, of this agreement.

**Land Use Permits: October 13, 2004**

**Documentation:** Letter from Agency indicating that all Land Use Permits required for final design have been obtained.

**Final Plans / Biddable Engineering Documents: February 28, 2006**

**Documentation:** A copy of completed Project plans, specifications and cost estimates.

**Contract Advertisement and Award: May 28, 2006**

**Documentation:** A copy of the Award of Contract submitted to the Bureau of Labor and Industries.

**Construction Completion: March 15, 2008**

**Documentation:** A letter from Agency indicating that construction is substantially complete.

**Project Completion: April 15, 2008**

**Documentation:** Letter from Agency indicating that the Project is complete and open to traffic, accompanied by Agency's final billing to ODOT.

Agreement No. 19,473  
Multnomah County

**Paragraph 20 of Agency Obligations, Page 6, which reads:**

20. Agency agrees to comply with the conditions for Project approval adopted by the Oregon Transportation Commission, as set out in Exhibit "A", Special Conditions, which is attached and made part of this Agreement.

**Shall be deleted in its entirety and amended to read:**

20. Agency agrees to comply with the conditions for Project approval adopted by the Oregon Transportation Commission, as set out in Revised Exhibit "A", Special Conditions, which is attached and made part of this Agreement.

**Paragraph 1a of ODOT Obligations, Page 6, which reads:**

1a. State shall reimburse Agency 100 % of eligible, actual costs incurred up to the maximum amount of OTIA funds committed for the Project specified in Terms of Agreement 3, provided that Agency is meeting the Project milestones set out in Agency Obligations 4. a. Under no conditions shall State's total obligation exceed \$806,723, including all expenses.

**Shall be deleted in its entirety and amended to read:**

1a. ODOT shall reimburse Agency 100 % of eligible, actual costs incurred up to the maximum amount of OTIA funds committed for the Project specified in Terms of Agreement 3, provided that Agency is meeting the Project milestones set out in revised Agency Obligations 4. a. Under no conditions shall ODOT's total obligation exceed \$956,723, including all expenses. When reimbursement is requested, Agency shall submit Exhibit C, which is attached hereto and by this reference made a part hereof.

**Paragraph, 5 of General Provisions, Amendment 1, Page 5, which reads:**

5. Except as expressly amended above, all other terms and conditions of the Agreement are still in full force and effect.

**Shall be deleted in its entirety and amended to read:**

5. Except as expressly amended above, all other terms and conditions of the Agreement are still in full force and effect. The Parties certify that the representations, warranties and certifications contained in the original Agreement are true and correct as of the effective date of this amendment and with the same effect as though made at the time of this amendment.

**EXHIBIT A IS REMOVED AND REPLACED IN ITS ENTIRETY BY ATTACHED REVISED EXHIBIT A.**

Agreement No. 19,473  
Multnomah County

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

The Oregon Transportation Commission on June 18, 2003, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations. Day-to-day operations include those activities required to implement the biennial budget approved by the Legislature, including activities to execute a project in the Statewide Transportation Improvement Program.

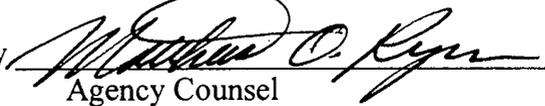
On September 15, 2006, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, Paragraph 1, in which authority is delegated to the Deputy Director, Highways; Deputy Director to approve and sign agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program or in other system plans approved by the Oregon Transportation Commission, or in a line item in the biennial budget approved by the Director.

**Multnomah County**, by and through its Elected Officials

By   
Chair

Date 4.12.07

**APPROVED AS TO LEGAL SUFFICIENCY**

By   
Agency Counsel

Date 4/12/07

APPROVED : MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # C-3 DATE 04-12-07  
DEBORAH L. BOGSTAD, BOARD CLERK

**STATE OF OREGON**, by and through its Department of Transportation

By \_\_\_\_\_  
Deputy Director, Highway

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By   
Region I Manager

Date 3/8/07

**APPROVED AS TO LEGAL SUFFICIENCY**

By \_\_\_\_\_  
Assistant Attorney General

Date: \_\_\_\_\_

**REVISED EXHIBIT A  
PROJECT DESCRIPTION  
MULTNOMAH COUNTY TRANSPORTATION DIVISION  
CORBETT HILL ROAD VIADUCT**

The Corbett Hill Road Viaduct is a load limited structure that restricts commercial access to and from the community of Corbett. Cracking is evident in both the deck and beams. More stringent weight limits or even complete closure is likely if the structure is not replaced. Corbett Hill Road is one of only two routes to and from the community of Corbett. Closure of the Corbett Hill road to freight traffic would require trucks to access I-84 via either the Stark Street Bridge (which is weight limited), or through a clearance limited under-crossing at Jordan Interchange.

This Project will replace the structure with either a new viaduct or a retaining wall.

Project Cost Estimate		Project Financing		
Preliminary engineering & design	\$ 350,000	Agency Contribution	\$ 240,000	20%
Right-of-way purchase	\$ 0	OTIA	\$ 956,723	80%
Construction	\$ 846,723			
Total	\$1,196,723	Total	\$1,196,723	100%

**SPECIAL CONDITIONS**

**The Oregon Transportation commission approved Projects for funding under OTIA subject to certain conditions:**

**No Conditions of Approval are required on this Project.**



**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST (long form)**

APPROVED : MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # C-4 DATE 4-12-07  
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only	
Meeting Date:	<u>04/12/07</u>
Agenda Item #:	<u>C-4</u>
Est. Start Time:	<u>9:30 AM</u>
Date Submitted:	<u>03/30/07</u>

**BUDGET MODIFICATION: LIB-05**

<b>Agenda Title:</b>	<b>Budget Modification LIB-05 Reclassifying One Position in Neighborhood Libraries Division, North Portland Library, as Determined by the Class/Comp Unit of Central Human Resources</b>
----------------------	--

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

<b>Date Requested:</b>	<u>April 12, 2007</u>	<b>Time Requested:</b>	<u>N/A</u>
<b>Department:</b>	<u>Library</u>	<b>Division:</b>	<u>Neighborhood Libraries</u>
<b>Contact(s):</b>	<u>Becky Cobb</u>		
<b>Phone:</b>	<u>503-988-5499</u>	<b>Ext.</b>	<u>85499</u>
<b>Presenter(s):</b>	<u>Consent Calendar</u>	<b>I/O Address:</b>	<u>317/LibAdmin</u>

**General Information**

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

Request board approval to reclassify a 1.0 FTE library position.

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

The reclassification request #649 has been approved by the Class/Comp Unit of Central HR to reclassify a vacant position, 708599, from Librarian (7222) to Program Coordinator (6022). This position at the North Portland Library has responsibility for coordinating the day-to-day operations of the library's computer lab and spends minimal time providing reference services. The Class/Comp Unit has determined that the Program Coordinator classification is a better fit for the responsibilities of this position.

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

The reclassification results in \$1,259 savings from salary, fringe and insurance. The savings will be added to temporary on-call budget for North Portland Library for vacancy coverage within the same cost center for current year. The position has been vacant since January 2007.

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

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

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

NA

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# ATTACHMENT A

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## Budget Modification

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

- What revenue is being changed and why?  
There is no change in revenue.
- What budgets are increased/decreased?  
There is no net change in expenditure budget.
- What do the changes accomplish?  
The change in classification more accurately reflects the level and scope of the job duties.
- Do any personnel actions result from this budget modification? Explain.  
Position 708599 will be reclassified from Librarian (7222) to Program Coordinator (6022) at the North Portland Library.
- How will the county indirect, central finance and human resources and departmental overhead costs be covered?  
There is no change to the indirect budget as there is no net dollar amount change in expenditure.
- Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?  
Not applicable.
- If a grant, what period does the grant cover?  
Not applicable.
- If a grant, when the grant expires, what are funding plans?  
Not applicable.

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

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## ATTACHMENT B

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**BUDGET MODIFICATION: LIB-05**

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### Required Signatures

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**Elected Official or  
Department/  
Agency Director:**

*Molly Raphael*

---

**Date:** 03/23/07

**Budget Analyst:**

*Angela Burdine*

---

**Date:** 03/30/07

**Department HR:**

*Lula Strathall*

---

**Date:** 03/20/07

**Countywide HR:**

---

**Date:** \_\_\_\_\_

Budget Modification or Amendment ID: **07-LIB-BM-05**

### EXPENDITURES & REVENUES

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

Budget/Fiscal Year: 06-07

Line No.	Fund Center	Fund Code	Func. Area	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
				Internal Order	Cost Center	WBS Element						
1	80-50	1510			805320		60000	454,494	453,660	(834)		Permanent
2	80-50	1510			805320		60100	25,000	26,259	1,259		Temporary
3	80-50	1510			805320		60130	143,017	142,774	(243)		Salary Related Expense
4	80-50	1510			805320		60140	136,791	136,609	(182)		Insurance Benefits
5	80-50	1510			805320		60350	19,142	19,142	0		Central Indirect @ 2.46%
6	80-50	1510			805320		60355	4,980	4,980	0	(0)	Department indirect @ 0.64%
7									0			
8									0			
9									0			
10									0			
11									0			
12									0			
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14									0			
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27									0			
28									0			
29									0			
										0	0	Total - Page 1
										0	0	GRAND TOTAL

**ANNUALIZED PERSONNEL CHANGE**

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

						ANNUALIZED			
Fund	Job #	HR Org Unit	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
1510	7222	61752	Librarian	708599	(1.00)	(47,997)	(13,958)	(13,083)	(75,037)
1510	6022	61752	Program Coordinator	708599	1.00	45,178	13,138	12,479	70,794
									0
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<b>TOTAL ANNUALIZED CHANGES</b>					<b>0.00</b>	<b>(2,819)</b>	<b>(820)</b>	<b>(604)</b>	<b>(4,243)</b>

**CURRENT YEAR PERSONNEL DOLLAR CHANGE**

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

						CURRENT YEAR			
Fund	Job #	HR Org Unit	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
1510	7222	61752	Librarian	708599	(1.00)	(14,561)	(4,234)	(3,974)	(22,770)
1510	6022	61752	Program Coordinator	708599	1.00	13,727	3,992	3,792	21,510
									0
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<b>TOTAL CURRENT FY CHANGES</b>					<b>0.00</b>	<b>(834)</b>	<b>(243)</b>	<b>(182)</b>	<b>(1,259)</b>



**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST (short form)**

**Board Clerk Use Only**

Meeting Date: 04/12/07  
 Agenda Item #: R-1  
 Est. Start Time: 9:30 AM  
 Date Submitted: 03/27/07

**Agenda Title: Briefing on the March Budget Workshops hosted by the Citizen Involvement Committee and Commission on Children, Families, and Community**

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

Requested Meeting Date: April 12, 2007 Amount of Time Needed: 15 minutes  
 Department: Non Departmental Division: CIC  
 Contact(s): Kathleen Todd  
 Phone: 503-988-3450 Ext. 22438 I/O Address: 503/6/CIC  
 Presenter(s): CIC and CCFC Members

**General Information**

1. What action are you requesting from the Board?

N/A

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

Briefing will provide context and information gathered during the two public workshops held March 10<sup>th</sup> in Gresham and March 15h in North Portland. The purpose of these events was to inform participants about Multnomah County's budget process and seek attendee's ideas, thoughts, and recommendations around community conditions related to poverty for the County's budget development for the July 2007-June 2008 Fiscal Year.

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

N/A

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

N/A

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

Workshops were planned and hosted by citizens. Emphasis was placed on ensuring the attendance of people who are in under-represented populations, including low-income families, teen parents, youth, and communities of color. All feedback gathered at these events is to be shared with the Board of County Commissioners, Multnomah County Departmental leaders, citizen budget advisory groups, and the larger community.

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**Required Signature**

---

**Elected Official or  
Department/  
Agency Director:**

*Kathleen M. Todd*

---

**Date: 03/27/07**

---

**BOGSTAD Deborah L**

**From:** TODD Kathleen M  
**Sent:** Thursday, February 15, 2007 5:20 PM  
**To:** COGEN Jeff; NAITO Lisa H; ROJO DE STEFFEY Maria; ROBERTS Lonnie J  
**Cc:** MARTINEZ David; LIEUALLEN Matt; WEST Kristen; ROCHE Hector R; DARGAN Karyne A; WHEELER Ted; MADRIGAL Marissa P; BOGSTAD Deborah L  
**Subject:** How would you like to participate?

Commissioners .....the Citizen Involvement Committee and the Commission on Children, Families, and Community have teamed up to host forums/workshops in March.

Goal: Our goal is to gather information from the community on how best to invest County funds in human services and public safety programs. We will work to encourage attendance of citizens who are in under-represented populations of our community, including low-income families, teen parents, youth and communities of color.

When: We plan to hold one Saturday morning March 10<sup>th</sup> in Gresham and the other on Thursday evening March 15<sup>th</sup> in north Portland. We apologize in advance for the somewhat short notice but time seems to be speeding by faster than usual during this particular budget process.

Agenda: The agenda includes a short introduction from Chair Wheeler focusing on the importance of citizen involvement in this budget process and a short briefing on community conditions related to poverty as well as public safety concerns in Multnomah County, with breakout discussion groups and report backs.

Your Involvement:

- A. What do you need to know?
  - a. Assist us with crafting the questions each discussion group will use to provide feedback to those attending, as well as to the BCC. We want the information gathered at these events to be helpful to you. Here is a very rough draft of possible questions:
    - What types of programs would be the most effective in reducing or eliminating poverty? What is the most important of these for the county to be spending money on?
    - What types of programs in the "Safety Priority" would be the most effective in supporting safety in our community? What is the most important of these for the county to be spending money on?
- B. If schedules allow, how would you and or your staff like to participate at the events? Here are a few suggestions to get you thinking:
  - a. Short hello to the attendees
  - b. Observer
  - c. Participate as a member of one of the discussion groups

We are excited about our partnership with CCFC as we host these workshops and will be looking at the feedback from the past several forums (including this one) to better meet the needs of citizens and the commissioners in next year's community engagement

process. Jessica, Hector and I have already met and started thinking about some possibilities. Hope to hear from you soon .....kmt

*Kathleen*

Kathleen Todd, Director  
Office of Citizen Involvement Multnomah County  
501 SE Hawthorne, Rm 192  
Portland, OR 97214  
503-988-3450  
503-780-8923 (cell)  
503-988-5674 (fax)  
[Kathleen.m.todd@co.multnomah.or.us](mailto:Kathleen.m.todd@co.multnomah.or.us)  
[www.citizenweb.org](http://www.citizenweb.org)

This communication may contain privileged or other confidential information exempt from disclosure. If you are not the intended recipient, you may not use, copy, disseminate or retain this message. Please delete the copy you received and alert the sender to the transmission error. Thank you.

**BOGSTAD Deborah L**

---

**From:** TODD Kathleen M  
**Sent:** Tuesday, February 20, 2007 11:25 AM  
**To:** BOGSTAD Deborah L  
**Subject:** RE: March Budget Workshops

We crafted the dates to fit with Chair Wheeler .....he will be saying a few words to the attendees at each  
.....  
Just confirmed the locations ....

**Saturday, March 10, 2007**  
**10:00 am to 12:30 pm**  
**East County Service Center**  
**Sharron Kelley Conference Room**  
**600 NE Eighth Street**  
**Gresham**

**Thursday, March 15, 2007**  
**6:00 to 8:30 pm**  
**New Columbia Education Center**  
**4625 N Trenton Street**  
**Portland**

**BOGSTAD Deborah L**

---

**From:** BOGSTAD Deborah L  
**Sent:** Wednesday, February 21, 2007 2:41 PM  
**To:** WILLER Barbara  
**Subject:** Citizen Involvement Committee and Commission on Children, Families, and Community Hosted Forums/Workshops in March

Barbara, I've polled the schedulers (Kathleen forgot to include April Fernandez on her email) for Kathleen and advised her that only Chair Wheeler will be attending the March 10th Workshop; and only Chair Wheeler and Commissioner Cogen will be attending the March 15th Workshop. Kathleen asked me to find out if the three Commissioners who cannot make the workshops would be sending one of their staff and I've let her know that someone from District 4 will attend the March 10th event; Matthew Lieuallen will attend both events for District 3; and April will let Kathleen know who will attend from District 1, as well as which date(s).

**Deb Bogstad, Board Clerk**  
**Multnomah County Commissioners**  
**501 SE Hawthorne Boulevard, Suite 600**  
**Portland, Oregon 97214-3587**  
**(503) 988-3277 phone**  
**(503) 988-3013 fax**  
[deborah.l.bogstad@co.multnomah.or.us](mailto:deborah.l.bogstad@co.multnomah.or.us)  
<http://www.co.multnomah.or.us/cc/index.shtml>

**Locations:**

**Saturday, March 10, 2007**  
**10:00 am to 12:30 pm**  
**East County Service Center**  
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**600 NE Eighth Street**  
**Gresham**

**Thursday, March 15, 2007**  
**6:00 to 8:30 pm**  
**New Columbia Education Center**  
**4625 N Trenton Street**  
**Portland**

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

**From:** TODD Kathleen M  
**Sent:** Thursday, February 15, 2007 5:20 PM  
**To:** COGEN Jeff; NAITO Lisa H; ROJO DE STEFFEY Maria; ROBERTS Lonnie J  
**Cc:** MARTINEZ David; LIEUALLEN Matt; WEST Kristen; ROCHE Hector R; DARGAN Karyne A; WHEELER Ted; MADRIGAL Marissa P; BOGSTAD Deborah L  
**Subject:** How would you like to participate?

2/26/2007

Commissioners .....the Citizen Involvement Committee and the Commission on Children, Families, and Community have teamed up to host forums/workshops in March.

Goal: Our goal is to gather information from the community on how best to invest County funds in human services and public safety programs. We will work to encourage attendance of citizens who are in under-represented populations of our community, including low-income families, teen parents, youth and communities of color.

When: We plan to hold one Saturday morning March 10<sup>th</sup> in Gresham and the other on Thursday evening March 15<sup>th</sup> in north Portland. We apologize in advance for the somewhat short notice but time seems to be speeding by faster than usual during this particular budget process.

Agenda: The agenda includes a short introduction from Chair Wheeler focusing on the importance of citizen involvement in this budget process and a short briefing on community conditions related to poverty as well as public safety concerns in Multnomah County, with breakout discussion groups and report backs.

#### Your Involvement:

What do you need to know?

Assist us with crafting the questions each discussion group will use to provide feedback to those attending, as well as to the BCC. We want the information gathered at these events to be helpful to you. Here is a very rough draft of possible questions:

What types of programs would be the most effective in reducing or eliminating poverty? What is the most important of these for the county to be spending money on?

What types of programs in the "Safety Priority" would be the most effective in supporting safety in our community? What is the most important of these for the county to be spending money on?

If schedules allow, how would you and or your staff like to participate at the events? Here are a few suggestions to get you thinking:

Short hello to the attendees

Observer

Participate as a member of one of the discussion groups

We are excited about our partnership with CCFC as we host these workshops and will be looking at the feedback from the past several forums (including this one) to better meet the needs of citizens and the commissioners in next year's community engagement process. Jessica, Hector and I have already met and started thinking about some possibilities. Hope to hear from you soon .....kmt

Kathleen

Kathleen Todd, Director

Office of Citizen Involvement Multnomah County

501 SE Hawthorne, Rm 192

Portland, OR 97214

2/26/2007

**2007 Budget Forums Report  
Citizen Involvement Committee and  
Commission on Children, Families & Community  
April 2007**

***I. Background:***

The Citizen Involvement Committee (CIC) and Children, Families and Community (CCFC) conducted two community meetings in March 2007 to seek input from the community on the County's anti-poverty and public safety programs. Citizen input was also gathered on building community engagement around the county's budget development process.

The goal of these sessions was to gather information from populations that are underrepresented in the County's budget development process - consumers of services, youth, people living on a low income, and communities of color. Spanish translation services and child care were offered at both events to draw family and community participation. The Saturday, March 10<sup>th</sup> event in Gresham attracted 50 participants, with a large proportion of attendees who were consumers of services. The Thursday, March 15<sup>th</sup> event had approximately 40 attendees, with the largest representation from service provider agencies. Based on the consumer, provider, and advocate representation, each group offered an informed view of the programs and services offered by the County and other provider agencies.

***II. Process for Forums***

Each forum included a presentation on the impact of poverty and public safety concerns on residents and communities in Multnomah County as well as a small group format for discussion and questions. There was also direct participation by County elected officials and department heads. Chair Ted Wheeler attended both events and provided introductory remarks. District Attorney Michael Shrunck was also present at both events. Commissioner Jeff Cogen attended and provided remarks at the North Portland forum.

The small group sessions were productive with a variety of perspectives shared in regard to the County's programs and services. The small groups facilitated by CIC and CCFC volunteers responded to the questions on poverty and public safety. Large group response was sought for the "Community Engagement" question.

Input and recommendations were framed around key questions:

**A. Anti-Poverty Programs & Services Questions:**

- ✓ What efforts or programs have you seen in our community that have reduced poverty?
- ✓ Why do you believe this effort or program worked?

- ✓ What were the components that made it successful?
- ✓ Was this program or effort a good use of public dollars?

**B. Public Safety Services Questions:**

- ✓ What programs within our public safety system have addressed or reduced poverty in our community?
- ✓ Which of these programs should the County continue to spend money on?

**C. Community Engagement Question:**

- ✓ What are your recommendations to the Board of County Commissioners?

***III. Community Input Categorized by Content Areas:***

The responses are organized by theme and topic area.

**A. Anti-Poverty Programs**

**1. Service Content**

**A. Housing**

- Affordable housing
- Safe and stable housing
- Homeless Shelter Services
- Transitional Housing Services
- Recovery Housing Services
- Support Housing Authority programs
- Prevent Homelessness
- Energy Assistance

**B. Food/Nutrition**

- Address hunger and food insecurity
- Grow own food – elder and ethnic programs
- Provide families with nutrition education and information
- Support OSU Extension Master Gardener Program
- Provide meals to individuals with disabilities, seniors, and families
- Food Stamp Program
- Community gardens
- Emergency food assistance
- Increase access to alternative food sources, i.e., Farmer's Markets, gleaning programs, etc., for low-income consumers

### **C. Health Care**

- County health clinic services
- Oregon Health Plan expansion
- Medicare for seniors and disabled people
- Mobile health van services
- Expand County/Kaiser Permanente partnership

### **D. Mental Health Treatment**

- Community mental health services important

### **E. Drug/Alcohol Prevention/Treatment**

- Prevention services needed
- Recovery support programs
- Needle exchange options needed

### **F. School-Based Services**

- Support SUN School System
- All schools should be SUN schools
- After-school activities
- Increase parent involvement
- Address issues involving bullying, racism, student conflicts, etc.

### **G. Early Childhood Education & Child Care**

- Head Start
- Affordable child care
- Quality child care

### **H. Transportation Access**

- Affordable for low-income workers and job seekers

### **I. Recreational Activities**

- Parks and recreation programs for low-income families

## **2. Family Economic Stability:**

- Adult Employment/Education
- Living wage opportunities
- Life skills classes
- Micro-lending programs
- ESL classes for non-English speakers

## **3. Systems Design:**

- Culturally Competent Services – translation services, immigration assistance, etc.
- Coordinated system services
- Agency collaboration
- Effective (Evaluation/Measurement)
- Efficient and cost effective
- Outcome orientation
- Information and referral about services
- Community advocacy for services
- Youth friendly services

## **B. Public Safety Services**

### **1. Service Content**

- Child protection
- Foster care system
- Crime prevention (includes neighborhood watch/ gang prevention)
- Domestic violence prevention/services
- Public transportation safety
- Homeless programs
- Perception of safety in community
- Youth programs

### **2. Systems Design:**

- School/police partnerships
- Advocacy for services
- Supportive parole and probation
- Family court system
- Community justice support for families
- Cultural sensitive services/programs
- Access to resources

- Summer programs

### **C. Community Engagement on County Budget**

#### **1. Participatory Approach**

- Public reports on services, budget amounts, audits, etc.
- Public hearings/meetings/workshops
- Ongoing conversations
- Respect for cultural diversity
- Consumer perspective
- Use of existing advisory committees
- Issues bring people out

#### **2. Process Design**

- Decision-makers (elected officials, department heads) visit programs
- Outreach on budget development to civic groups and community organizations
- Change format for youth participation
- Publicize how to get involved early
- Community input needs to get to program staff

### ***IV. Recommendations to the Board of Commissioners:***

The 2007-08 budget will determine how Multnomah County serves its citizens. The Citizen Involvement Committee and the Commission on Children, Families & Community collaborated on the Budget Forum session to create an opportunity for the community to respond to the County's budget development based on their knowledge and experience of programs and services. CCFC and CIC believe that citizen input is critical in determining how community priorities reflect the vital programs and services the county offers. We have developed recommendations regarding both the budget's content and development based on information gathered at these events.

#### **Budget Content – Anti-Poverty Programs & Services:**

1. Consumers, community advocates, and providers all shared a common concern about the needs for basic needs programming and services. The most input concerned the areas of housing, health care, emergency food/nutrition programs, and school-based services.
2. Forum participants showed a strong interest in programs designed to help individuals and families gain economic stability, including educational supports, ESL and life skills classes, and micro-lending opportunities.

3. There was universal agreement among participants that the County's basic needs services should be designed to be culturally competent, effective, efficient, and coordinated with services available in the community.

***Budget Content - Public Safety:***

1. Participants agreed that easy access to programs that prevented or mitigated the effects of crime were very important. Suggestions included after school and summer youth programs, the need for a supportive parole and probation system, the need for services and counseling for families that have members who are clients of the justice system as well as ongoing help for victims of crime or violence.

2. Activities that encourage participation within the community were discussed at length. These included partnerships between schools and law enforcement such as school resource officers, PAL, DARE, etc. Gang prevention programs and neighborhood watch were also seen as good partnership opportunities.

3. All participants were in agreement that programs that stabilize families also stabilize the community, leading to a higher quality of life. Low cost education, family activities, good youth programs, adequate housing and health care all feed into the creation of a safer community.

4. Concern surrounding one's safety while using public transportation was a topic of discussion by many attendees. Many don't feel safe and would avoid using public transportation if they could. More patrols and better lighting were suggested as possible solutions at some locations.

5. There was also universal agreement among participants discussing public safety that services and programs should be designed to be culturally competent, effective, efficient, and coordinated with services available in the community.

**Meaningful Community Engagement in Budget Development:**

1. Encourage greater community dialogue about the County's budget by receiving input early in the process.

2. Conduct targeted outreach to individuals and families who utilize services, underrepresented populations, civic groups, and others, to ensure varied input and ideas. Reach out to diverse populations.

4. Provide translation services and child care at budget input and development gatherings to ensure the participation of families with children, non-English speakers, and other groups.

5. County policy-makers and administrators were advised to conduct site visits to community programs to meet service providers and consumers.
6. Include current county advisory groups as they have deep and informed knowledge that should be utilized.
7. Communicate with civic groups, neighborhood associations, and others to explain and discuss the County's budget's development.
8. Create a County "Annual Report" that summarizes the County's investments in human services and public safety.

# Agenda

## March 10<sup>th</sup> – Gresham

The purpose of this Budget Forum is to inform participants about Multnomah County's budget process and seek your input on community conditions related to poverty. We're interested in learning your ideas, thoughts, and recommendations for the County's budget development for the July 2007-June 2008 Fiscal Year. We will share all the feedback we receive with the Board of County Commissioners, Multnomah County Departmental leaders, citizen budget advisory groups, and the larger community.

### **9:00 – 10:00 – Registration**

### **10:00 – Welcome and Review Agenda**

*Jessica Hamilton, CIC Chair/Carla Piluso, CCFC Chair*

### **10:10 – “Citizen Input to Multnomah County's Budget”**

*Ted Wheeler, Chair, Board of County Commissioners*

### **10:30 – “Community Conditions Related to Poverty”**

*Wendy Lebow, Director, Commission on Children, Families, & Community*

### **10:50 – Small Group Discussions:**

- a. What efforts or programs have you seen in our community that have reduced poverty? Why do you believe this effort or program worked? What were the components that made it successful? Was this program or effort a good use of public dollars?
- b. What programs within our public safety system have addressed or reduced poverty in our community? Which of these programs should the County continue to spend money on?

⇒ Select someone to represent group during the report back

### **11:50 – Report Backs from Small Groups**

### **12:15 – Response from Participants: “How can we build meaningful community engagement around the County's budget development process?”**

### **12:25 – Final Comments and Next Steps**

# Agenda

**March 15<sup>th</sup> – North Portland**

The purpose of this Budget Forum is to inform participants about Multnomah County's budget process and seek your input on community conditions related to poverty. We're interested in learning your ideas, thoughts, and recommendations for the County's budget development for the July 2007-June 2008 Fiscal Year. We will share all the feedback we receive with the Board of County Commissioners, Multnomah County Departmental leaders, citizen budget advisory groups, and the larger community.

**5:00 – 6:00 – Registration**

**6:00 – Welcome and Review Agenda**

*Jessica Hamilton, CIC Chair/Wendy Lebow, CCFC Director*

**6:10 – “Citizen Input to Multnomah County's Budget”**

*Ted Wheeler, Chair, Board of County Commissioners*

**6:30 – “Community Conditions Related to Poverty”**

*Cathy Kaufmann, Public Policy & Communications Director,  
Children First for Oregon*

**6:50 – Small Group Discussions:**

- a. What efforts or programs have you seen in our community that have reduced poverty? Why do you believe this effort or program worked? What were the components that made it successful? Was this program or effort a good use of public dollars?
- b. What programs within our public safety system have addressed or reduced poverty in our community? Which of these programs should the County continue to spend money on?

⇒ Select someone to represent group during the report back

**7:50 – Report Backs from Small Groups**

**8:15 – Response from Participants:** “How can we build meaningful community engagement around the County's budget development process?”

**8:25 – Final Comments and Next Steps**

## March 2007 County Budget Forums

### Small Group Purpose:

The purpose of these small group sessions is to discuss what works in addressing poverty in our community. We want to draw on the experience and knowledge of the group in outlining "what works." All comments made by the groups will be recorded and passed on to the Chair, County Commissioners, county departmental leaders, Citizen Budget Advisory Committees, and the larger community. The comments will also be posted on the Citizen Involvement Committee (CIC) web site [www.citizenweb.org](http://www.citizenweb.org).

### Small Group Agenda

Each group will have two topics to discuss – Reducing Poverty & Public Safety.

Step 1) Select a facilitator and recorder if no one has already been assigned to your group.

Step 2) What efforts or programs have you seen in our community that have reduced poverty? Why do you believe this effort or program worked? What were the components that made it successful? Was this program or effort a good use of public dollars?

What programs within our public safety system have addressed or reduced poverty in our community? Which of these programs should the County continue to spend money on?

Step 3) Report Out: *Recommendations to the Commissioners*. All group participants will decide the two most important recommendations for each of the two topic areas, and the reasons for making the recommendation.

Step 4) Select someone to report the final results of the small group discussion (Step 3) to the larger group.

***Thank You for Your Ideas!!***

# MULTNOMAH COUNTY 2007-2008 BUDGET HEARINGS

## ALL MEETINGS ARE OPEN TO THE PUBLIC

Public testimony will be taken at the public hearings listed below.  
Unless otherwise noted, all sessions will be held in the Multnomah Building, First  
Floor Commissioners Boardroom 100, 501 SE Hawthorne, Portland.  
Contact Board Clerk Deb Bogstad 503 988-3277 for further information.

**Thu, April 19**

**9:30 a.m. to 12:00 p.m.**

***Chair Ted Wheeler's 2007-2008 Executive Budget  
Message***

***Public Hearing and Consideration of Resolution  
Approving 2007-2008 Executive Budget for  
Submission to Tax Supervising and Conservation  
Commission***

**Tue, April 24**

**6:00 p.m. to 8:00 p.m.**

***Public Hearing on the 2007-2008 Multnomah County  
Budget - Multnomah County East Building, Sharron  
Kelley Conference Room, 600 NE 8th, Gresham***

**Tue, May 8**

**6:00 p.m. to 8:00 p.m.**

***Public Hearing on the 2007-2008 Multnomah County  
Budget - North Portland Library Conference Room,  
512 N Killingsworth, Portland***

**Tue, May 22**

**6:00 p.m. to 8:00 p.m.**

***Public Hearing on the 2007-2008 Multnomah County  
Budget - Multnomah Building, Commissioners  
Boardroom 100, 501 SE Hawthorne, Portland***

**Thu, Jun 7**

**10:00 a.m.**

***Tax Supervising and Conservation Commission  
Public Hearing on the Multnomah County 2007-  
2008 Budget***

**Thu, Jun 7**

**10:30 a.m. to 12:00 p.m.**

***Public Hearing and Resolution Adopting the 2007-  
2008 Budget for Multnomah County Pursuant to  
ORS 294***

**2007 Budget Forum Evaluation Form**

Name: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

E-Mail: \_\_\_\_\_  
*(Please print clearly)*

Please do not include me when sending information in the future.

1. How would you rate your satisfaction with this Budget Forum Session?

- Very Satisfied     Satisfied     Neutral     Not Satisfied     Very Unsatisfied

Comments: \_\_\_\_\_  
\_\_\_\_\_

2. What worked well with the Forum?

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

3. What would you have changed with the Forum?

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

4. How did you hear about this Budget Forum Session? (✓ Check all that apply)

- Flyer     Email     Website     Newspaper/Newsletter Article     Social Services Agency  
 Child's School     Neighborhood Association     Friend/Family Member     Other \_\_\_\_\_

5. Any Other Comments?

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

***Thank You!!***

# Multnomah County Citizen Budget Meeting

(Include Contact Information to receive notice of future opportunities to participate in this topic.)

Name	Address	Phone	Email (please print clearly)	Don't Contact
Jane Roe	123 Anywhere RightHere, OR 97214	503 - 988- 3450	janeroe@ myisp.com	

**CIC/CCFC Multnomah County Budget Forums  
(March 10<sup>th</sup>, 2007)**

GROUP 1
<b>What efforts or programs have you seen in our community that have reduced poverty? Why do you believe this effort or program worked? What were the components that made it successful? Was this program or effort a good use of public dollars?</b>
Bringing offices in the community Bussing service (public transportation) Mobile services (County Medical Van) Business house Awareness Culturally supportive services Trust National night out (Kids classes, etc.—literature available) Community gardens/socialization (Intergenerational) Community Involvement Poverty has moved East, Resources haven't followed
<b>What programs within our public safety system have addressed or reduced poverty in our community? Which of these programs should the County continue to spend money on?</b>
GRESHAM vs. PDX (homelessness, crime, poverty) County doesn't support community No homeless shelter Youth not been sucked into "street culture". Teen clinic Need is great, not enough money Supporting legislatures Re-engaging neighbors to help each other Neighbors care (Sellwood area) Need Community policing

GROUP 2
<b><i>Recommendations to the Commissioners</i></b>
Programs that Allow/Provide Leveraging 1. Affordable Housing 2. Head Start, domestic violence, clean community programs
<b>What efforts or programs have you seen in our community that have reduced poverty? Why do you believe this effort or program worked? What were the components that made it successful? Was this program or effort a good use of public dollars?</b>
Grow own food Conserve energy County employees within existing programs Extension program/OSU How to bring it back? Housing authority/health services

<p>Community Mental health  SUN School Programs  Gang prevention programs  Child care programs  Volunteers/Extension program  4H program partnered with public school  Used existing relationship to deliver services  Diversity  Prevention programs intervention keeps people from using emergency services  Puts people back to work  Proactive rather than reactive  Housing helps people be productive  Extension program/education partnership investment  Waste to under-fund projects  Stick with project  Monitor programs and make adjustments  Work with prevents/young children  Programs with life skills/good use of public dollars</p>
<p><b>What programs within our public safety system have addressed or reduced poverty in our community? Which of these programs should the County continue to spend money on?</b></p>
<p>Gang prevention programs  Domestic violence programs  Programs that support families  Programs that engage teens  Homeless programs/train police  Community policing programs  Crime prevention  Clean up communities/no graffiti  Supportive neighborhood associations</p>

<b>GROUP 3</b>
<b><i>Recommendations to the Commissioners</i></b>
<p>1. Family and Youth Stability  SUN, Intervention, i.e. "Rapid re-housing"  Health Department, access and preventative care, across age spectrum  1. Prevention, Community Policing  Prevention, community policing  Domestic violence and other victims' assistance</p>
<p><b>What efforts or programs have you seen in our community that have reduced poverty? Why do you believe this effort or program worked? What were the components that made it successful? Was this program or effort a good use of public dollars?</b></p>
<p>What works  Food bank teaching about bulk foods  Human solutions, skill building classes, employment, housing, maintenance  Youth services—access  Skill building</p>

<p>HYS/SMYRC  Family stability, child abuse (destabilization)  Specific demographic  Mentoring for support reasons  Family court systems  Not giving up, keeping families together throughout treatment  Homeless prevention, eviction prevention  Families already homeless, "rapid re-housing"  SUN-East County parents relying on while in work  -Prevention of poverty  -Provides vehicle for others to help  -Schools support and welcome program, needs consistency  -Existing partnerships  Head Start—all aspects  Energy assistance, also prevents eviction  Community based education, GED and literacy as employment stepping stones  Health department, community health nurses, North Portland</p>
<p><b>What programs within our public safety system have addressed or reduced poverty in our community? Which of these programs should the County continue to spend money on?</b></p>
<p>Public Safety Works  Family Courts  Parole and probation, good officers support smooth transition  Domestic violence, prevention and intervention  Drug prevention and recovery support  Victim assistance programs  Community policing, community accessibility (Rockwood)  Gangs  -After school latch key  -Soccer  -Youth centers  Parking Lot  Children falling through crack with county and city collaboration with schools and funding  More DV prevention funding  Youth dating education and influence encouragement</p>

<b>GROUP 4</b>
<b><i>Recommendations to the Commissioners</i></b>
<p>Top 2 Recommendations—Poverty</p> <ol style="list-style-type: none"> <li>Steps to success (diagram outlining partnerships between MHCC, DHS, Sno-Cap, Oregon Employment Department, Head Start, Domestic Violence, and Metro Child Care Resource Referral)</li> <li>Human (housing) Solutions (after school programs at sites)</li> </ol>
<p><b>What efforts or programs have you seen in our community that have reduced poverty? Why do you believe this effort or program worked? What were the components that made it successful? Was this program or effort a good use of public dollars?</b></p>
<ol style="list-style-type: none"> <li>Goals program H.A.P.</li> </ol>

2. Head Start (PAT) Funding?
3. Jobs (Coaching)
4. Meals on Wheels—Elks
5. Sno-Cap
6. Human Solutions
7. MHCC Steps to Success
8. Workforce Connections
9. Master Gardener
10. G.R.E.A.T.

Why does it work?

1. Targets HAP/HUD, job training/education, life skills with case manager, five year program, increase wages paired with matched funds toward ownership
2. Supports the whole family in addition to the student (0-3, 3-5), increase student knowledge, increase family success
3. Improves learning capacity, targets health/human service job skills
4. Get meals to citizens, seniors, disabled, etc.
5. Community garden, food boxes, community basket "Gleaners", recipes, newsletters, clothing closet
6. Multiple programs to assist, energy assistance, Living Solutions, family shelter (Daybreak), language friendly, diverse staff, multiple locations
7. Works closely with self-sufficiency, Multiple partnerships to increase success, Clients work their way "out" of poverty, Career development
8. Target clients within other programs for job market consulting, food handlers card, bus tickets, trainings paired with case manager, language friendly
9. Time donated to public (no cost), gardening skills, works with youth, public buildings, supplements other programs
10. Police run, targets youth and parents, decrease gang involvement, peer pressure, drug awareness, works with HAP, Boys/Girls Club

Good use of \$ (Corresponds with number next to programs listed above)

1. Yes, need better screening process, long waiting list, increase supervision
2. Yes
3. Yes
4. Yes
5. Yes (however private)
6. Yes, but (LIEAP clients must either wait for shut off, will be even less dollars in the future, wait too long)
7. Yes
8. Yes
9. Yes
10. Unable to measure results

**What programs within our public safety system have addressed or reduced poverty in our community? Which of these programs should the County continue to spend money on?**

G.R.E.A.T.

Police Activities League, safe haven

Summer programs

<b>GROUP 5</b>
<b><i>Recommendations to the Commissioners</i></b>
Personal Sustainability (Planting the seed for dignity) <ol style="list-style-type: none"> <li>1. Micro Lending, personal transportation</li> <li>2. Extension services, community education</li> </ol>
<b>What efforts or programs have you seen in our community that have reduced poverty? Why do you believe this effort or program worked? What were the components that made it successful? Was this program or effort a good use of public dollars?</b>
PREVENTION 4H Extension services Personal sustainability Income generation education Parental education skills Integrating parents in education system Recognizing non-traditional learners Preventing homelessness Low income housing, encouraging home ownership Lack of volunteer recognition in extension services Extended funding to help kids, families pay for transportation Continue to support transportation for seniors—Trimet, handicapped Support ending program to buy cars (find the source) (subsidized program) Develop a combined vehicular, gasoline insurance program Lenders program, on web borrow from a combination of lenders, microlending Expand Mult Co. and Kaiser partnership Expand in health services for elementary-middle school students Develop Ethnic Gardening Elder gardening Micro-lending Lack of communication between OSU and County Commissioners, Extension Service for services to citizens (volunteers) of Multnomah County Movement to other counties by Extension Service Volunteers
<b>What programs within our public safety system have addressed or reduced poverty in our community? Which of these programs should the County continue to spend money on?</b>
TRANSPORTATION To transport at risk people to jobs—no jobs in East County No escape, no dollars for public transportation or lack of own transportation requires use of public transportation -Many safety issues involved -Ethnic/economic predators -Scams -Identity theft

**Group 6**

**Recommendations to the Commissioners**

1. More information, explain housing/property taxes—taxes go to library and schools
2. Fewer barriers around language, more opportunities for work that doesn't require bilingual skills
3. Medical care for family, health care

**What efforts or programs have you seen in our community that have reduced poverty? Why do you believe this effort or program worked? What were the components that made it successful? Was this program or effort a good use of public dollars?**

Poverty:

Language barriers (Spanish/English) have presented barriers to learning about programs and services  
Health Clinic services are very helpful  
Head Start is good  
Programs at are delivered by State Human Services, like Food Stamps, Oregon Health Plan, etc., are really helpful – there are challenges when the “poorer you are the more help you are offered”  
English courses are good  
Need more information on services – no good source of information  
Medical services are big help for children  
Food Stamps are good – but the amount drops as your income increases

Good Expenditures?

“Yes” on the programs listed above  
Head Start also offers resources for helping with child care needs

Challenges?

Minimum wage work (\$7.80/hr) doesn't cover expenses – child care is very expensive  
Electricity and utilities are expensive – especially during the cold months – bills become to high to pay  
Confusion on regulations impacting children born in the US versus those born in other countries – US citizens and non-US citizen services are different  
Places where you seek will tell you that you don't qualify – but don't offer resources for finding other help – it gets discouraging  
Husband's salary doesn't take care of expenses when mom stays at home with kids  
Single mom experiences financial stresses constantly with not being able to pay bills  
Lost of costs with young children that subsidies don't cover like diapers, clothes,

over-the-counter medicine like cough syrup  
 Assistance available for kids, but not parents  
 In Mexico, medicines were available at low-cost, didn't have to go through medical system to get basic medicines  
 Taking children to emergency room is stressful when medical staff say that the child is "not sick" – even though they are sick when at home

**What programs within our public safety system have addressed or reduced poverty in our community? Which of these programs should the County continue to spend money on?**

Do feel that kids are safe at school – but nervous that something could happen – don't know enough about safety at school  
 Child safety a concern  
 Child protection issues are different in Mexico – discipline may be more strict or rigid than in US – worry that children can accuse parent of child abuse  
 Cultural differences in raising children – child discipline is different – "How should I raise my child?"  
 Child thinks of him/herself as an adult if they speak English  
 Love kids – but discipline can be misinterpreted as abuse  
 Domestic violence when children are present is a crime in US  
 Child can threaten parent with calling the police – need balance with child protection  
 Emergency info on how to contact emergency response is good, i.e., 911  
 Vandalism at school is a problem  
 Some neighborhood places are safe – others aren't  
 Good relationships with neighbors help increase safety  
 Hard to communicate with neighbors when they don't speak Spanish  
 Bus stop – not safe – drive-by shootings are a threat  
 Neighborhood groups increase safety

**ALL**

***Recommendations to the Commissioners***

**How can we build meaningful community engagement around the County's budget development process?**

Child care, need child care to work, Head Start Good  
 High School parent council, where is money actually going?  
 Public reports about problems, inform public  
 County staff, develop budget, get community input to staff in programs  
 CBAC Process/Public hearings  
 Yearly audits of programs, accountability  
 Bring people together, more participation (Comm. Garden)  
 Bring diverse people together

Consumer Council for Health Department, translation services  
Respect and address cultural diversity  
Public hearings  
Email/contact county staff  
Getting involved – one number to call  
Department needs information on community conditions  
Hear from clients of programs, input to people making budget decisions  
Voices are heard, advocating for SUN, comm. Sets priorities, is it worth time to participate?  
People involved earlier in the process  
Reps. Of county go to groups, rotary, HS, etc. explain budget process, go to people  
City departments, citizen advisory, community recruit for citizen involvement  
Hearings  
Email messages to Chair's office  
Speakers go to programs  
Decision makers should visit programs/accountability  
(How can they really know how well program is doing)  
Look at programs in partnerships (match or increase investment) no just \$-volunteers/goodwill/networking  
Feel voices have been heard—need to explain why decision was made—particularly when different from public will

**CIC/CCFC Multnomah County Budget Forum  
(March 15<sup>th</sup>, 2007)**

<b>Group 1</b>
<i>Recommendations to the Commissioners</i>
<p>Reducing Anti-Poverty</p> <ol style="list-style-type: none"> <li>1. Anti-poverty/system for most vulnerable people, prevention, basic needs</li> <li>2. Youth Programs overlooked, next generation, future</li> </ol>
<p><b>What efforts or programs have you seen in our community that have reduced poverty? Why do you believe this effort or program worked? What were the components that made it successful? Was this program or effort a good use of public dollars? What programs within our public safety system have addressed or reduced poverty in our community? Which of these programs should the County continue to spend money on?</b></p>
<p>Prioritize poorer schools            Provide same structure that SUN provides for SUN Schools            For both questions—improve coordination (ex. One Stop)            Community based coordinated services brings in volunteer/faith based            Family stability housing stability (HC School)—ACCESS TO RESOURCES            There are increased rent and health insurance costs            No healthcare            Wage issues            Limited safety net (family)            Limited skill set to navigate service system            Educational opportunities make a difference (college, vocational skills)            Early childhood education            Affordable child care  <b>MEASURING OUTCOMES</b>            Increased income            Housing stability            Access to health care and health education            Family stability            Academic progress            Good use of resources            Access to mobile health unit            SUN/Touchstone            Increase protect, decrease risk            Guidelines for outcomes, parent involvement, independent living of elderly, mental health</p>

## Group 2

### *Recommendations to the Commissioners*

**What efforts or programs have you seen in our community that have reduced poverty? Why do you believe this effort or program worked? What were the components that made it successful? Was this program or effort a good use of public dollars?**

#### DECREASING POVERTY

- Healthcare Oregon Health Plan, Med Van, Health Care Centers—Mental health
- Education, Head Start, Neigh. Hse., Portland Impact, PCDS, PCPO
- Safety Net Rental assistant/housing programs
- Youth Programs, SMYRC, Outcome (SEI) Based Programs, PCCC/YO, CCC—Clack. Charter Alliance, New Columbia (Youth Programs)
- Homeless Youth
- Anti-Poverty System for most vulnerable people
- Foster care system
- Early childhood program
- Parks and recreation
- Transportation
- Youth focused programs in budget

YES!!!

Save lives dollar for dollar outcomes, continuity of services, direct service, access and speed of service

Effectiveness based on outcomes

Holistic delivery of services

Intense/deep applications, not a band-aid

Treat causes not just symptoms

NO

Mismanagement of dollars

High administrative costs is constituents (over 20%)

More diverse community policing

*SMYRC—sober and safe*

Resource available, counseling, social interaction, leadership skills

Outside In

Youth programs (funded by County)

Domestic violence/family transition programs (funded by County)

Needle exchange, drug prevention (funded by County)

Safety: justice program (serving families of incarcerated individuals)

New college community pol.) 2 officers

Fund prevention programs in the County, work training, SEI, NAY, DARE

School/police partnerships

*Healthcare*

Accessibility, mental healthcare, basic needs met, parks and recreation

Activities that encourages participation, youth appeal

Housing with services, holds families together, stabilizes families

*New Columbia/Anti Poverty System and other communities (planned)*

Holistic, interconnectivity with community and low income

P and R, after school programs, exercise, preventative activities (proactive), low cost

community education and activities

Coordinator for specific ethnic communities

Paid job training for youth and adults Early education with proven outcomes Education including social and psych. Components/after school programs
<b>What programs within our public safety system have addressed or reduced poverty in our community? Which of these programs should the County continue to spend money on?</b>
<ol style="list-style-type: none"> <li>1. Domestic violence/Family Transition Programs, keep people alive, societal change for next generations, decrease homelessness</li> <li>2. Drug and alcohol prevention, crime prevention, public safety, better allocation of (police) resources, decrease homelessness</li> </ol>

<b>Group 3 and 4</b>
<b><i>Recommendations to the Commissioners</i></b>
Focus On <ol style="list-style-type: none"> <li>1. Cultural Competence, use, hire people from target communities</li> <li>2. Identify preferred services from community consumers</li> </ol>
<b>What efforts or programs have you seen in our community that have reduced poverty? Why do you believe this effort or program worked? What were the components that made it successful? Was this program or effort a good use of public dollars?</b>
Increase substance free events Create adult/youth partnerships SUN schools are coordinating with youth programs All schools to be SUN Schools Support SUN School/system Increase parent involvement Anti-bullying education Lack of quality education=poverty=criminal activity Need to address racism After school activities Lack of coordinated after school activities Bring back extension services Sex/drug and alcohol education in school What is poverty? Emptiness Food security Language barriers Housing Trapped How to access (Knowledge of services) Making hard decisions about living conditions Financial literacy Food and Medicare Hunger Scary isolation Low self-esteem No family support Cultural discontent with service providers, teachers, etc. Confusion and overwhelming number of providers

<p>Inaccessibility of services          Poor communication b/w service providers          Lack of system cohesion          What services/systems needed?          Rainy day fund          One stop agency          Coordination effort of services (County)          Regional network coordination          Community Gardens use tillable lands 300 plots          Food stamps/discount at Farmer's Market          Supplement program house dollars at Farmer's Market          Identify most at risk populations and prioritize under served communities          Shortage of resources (ex. Energy assistant)          Lack of communication makes people in poverty travel from place to place.</p>
<p><b>What programs within our public safety system have addressed or reduced poverty in our community? Which of these programs should the County continue to spend money on?</b></p>
<p>Max line unsafe (public transit)          Single women don't feel safe          Transit system not convenient          Bicycling requires preparation, knowledge and time          People in poverty don't have choice about transportation</p>

<b>ALL</b>
<b><i>Recommendations to the Commissioners</i></b>
<p><b>How can we build meaningful community engagement around the County's budget development process?</b></p>
<p>-Does chair want to hear from community?          Foundational ideas          Engage people earlier          Core services          Community Liaison staff          -Commissioner to visit sites—meet/know consumers          Setup avenues for community input—go to at risk populations          -Encourage community dialogue-neighborhoods-engage users of services, people are comfortable to participate          -Reach out to people-make information more available          -Issues tend to bring people out, i.e. SUN Schools          -Anti-poverty programs important          -County take coordinate and services seriously          -Agencies need to collaborate          -Neighborhood watch efforts bring people together, know neighbors, decision-makers support community based efforts          -Seniors show up for legislative activities, set up times to discuss anti-poverty work          -Change format for children and youth forums/workshops          -What is county investing in? Annual Report—What do agencies do with County?          -Unless you are a consumer, you don't know what County does?          -Youth friendly—open up discussions</p>



**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST (short form)**

APPROVED : MULTNOMAH COUNTY  
 BOARD OF COMMISSIONERS  
 AGENDA # R-2 DATE 04-12-07  
 DEBORAH L. BOGSTAD, BOARD CLERK

<b>Board Clerk Use Only</b>	
Meeting Date:	<u>04/12/07</u>
Agenda Item #:	<u>R-2</u>
Est. Start Time:	<u>9:45 AM</u>
Date Submitted:	<u>04/04/07</u>

**Agenda Title: Authorizing Settlement of Rick Magallanes Workers' Compensation Case**

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

<b>Requested Meeting Date:</b>	<u>April 12, 2007</u>	<b>Amount of Time Needed:</b>	<u>2 mins</u>
<b>Department:</b>	<u>Non-Departmental</u>	<b>Division:</b>	<u>County Attorney</u>
<b>Contact(s):</b>	<u>Agnes Sowle</u>		
<b>Phone:</b>	<u>503 988-3138</u>	<b>Ext.</b>	<u>83138</u>
		<b>I/O Address:</b>	<u>503/500</u>
<b>Presenter(s):</b>	<u>David Blankfeld</u>		

**General Information**

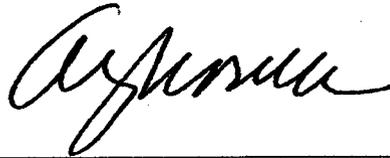
- 1. What action are you requesting from the Board?**  
 Approve settlement of Rick Magallanes Workers' Compensation case.
- 2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**  
 Sheriff's Deputy was injured during job related training and will not be able to resume his duties as corrections officer. The County and Magallanes have agreed to a lump sum payment of \$55,000 where Magallanes will resign employment with the County rather than go through the required vocational training at the County's expense.
- 3. Explain the fiscal impact (current year and ongoing).**  
 N/A
- 4. Explain any legal and/or policy issues involved.**  
 On December 18, 2003, the Board adopted Resolution 03-171 delegating authority to the County Attorney to settle claims and litigation against the County or its employees in amounts up to \$25,000 per case. The County Attorney must obtain Board approval for all settlements of over \$25,000.
- 5. Explain any citizen and/or other government participation that has or will take place.**  
 N/A

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**Required Signature**

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**Elected Official or  
Department/  
Agency Director:**



A handwritten signature in cursive script, appearing to read "A. J. ...", is written over a horizontal line.

**Date: 04/04/07**

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franchising authority does not reach agreement with the applicant on the terms of a franchise agreement or deny the application within the time limit, the FCC CFAR authorizes competitive providers to begin offering service under an interim franchise consisting of the terms of its application.

The MHCRC has previously issued formal Requests for Information (RFI) including criteria for competitive cable franchise applicants based on the timing and nature of applications received. The FCC CFAR, to the extent it provides a separate, nonexclusive, continuing alternative application process for competitive franchise applicants and includes provisions that apply only to such applicants, requires that the MHCRC embody its prior RFI processes and criteria into a CFAR Local Rule setting forth an application and review process that protects the Jurisdictions in light of the new competitive franchising rules. Specifically, because applicants may be deemed to have been granted an interim franchise based on the terms set forth in their application with no opportunity for the MHCRC or the County to alter or amend these terms, the application process must be sufficient to protect the County's right to regulate access to local rights of way; the County's federal authority to assure that the cable operator meets community needs and interests; and the County's authority to ensure compliance with federal, state and local laws.

Implementing the CFAR Local Rule prior to the effective date of the FCC CFAR will protect the County's interests in the event a competitive cable services provider applies for a cable franchise under the FCC CFAR. While the IGA provides the MHCRC with the authority to adopt and implement the CFAR Local Rule and related rules, forms and procedures, adoption of the terms of the CFAR Local Rule by ordinance of each its participating Jurisdictions will prevent confusion and ensure that the appropriate application process, consistent with the IGA, is followed by competitive providers, and that any such application is duly submitted to the MHCRC for consideration, appropriate action, or recommendation to one or more of the Jurisdictions, as applicable, pursuant to the authority vested in the MHCRC by the IGA.

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

None.

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

The MHCRC, its staff and legal counsel have thoroughly reviewed the FCC rule, its potential impacts on existing competitive franchise applications, and its potential impact on the longstanding cable franchise benefits and commitments embodied in the current cable franchises in force in MHCRC Jurisdictions prior to making its recommendation.

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

All MHCRC meetings were publicly noticed.

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**Required Signature**

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Elected Official or  
Department/  
Agency Director:



Date: 04/03/07

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**Before the  
Mt. Hood Cable Regulatory Commission  
1120 SW Fifth Ave, Room 1305  
Portland, OR 97204**

Recommend MHCRC Jurisdictions approve	)	
competitive cable franchise application process	)	Res. No. 2007-02
specifying application criteria and information	)	Adopted by the Commission
required in connection with any franchise	)	April 2, 2007
application submitted pursuant to §76.41 of the	)	
Code of Federal Regulations	)	

Section 1. Findings.

- 1.1 Authority. The Mt. Hood Cable Regulatory Commission (“MHCRC”) was created by Intergovernmental Agreement (dated 12/24/92) (“IGA”) to carry out cable regulation and administration on behalf of Multnomah County and the cities of Portland, Gresham, Troutdale, Fairview, and Wood Village (“the Jurisdictions”). Among other things, the MHCRC acts in an advisory capacity to the Jurisdictions in connection with the proposed grant of any cable franchise. As set forth in the IGA (Section 4.B.1), the Jurisdictions have reserved to themselves authority to grant cable communications system franchises; while agreeing to consider the advice and recommendations of the MHCRC and to take no action in such matters until the MHCRC has had a prior opportunity to consider the matter. The IGA (Section 3) vests with the MHCRC all the powers, rights and duties necessary to carry out the purposes of the IGA, which includes the authority to create a competitive cable franchise application process for any applicant seeking a competitive cable franchise in any of the Jurisdictions.
- 1.2 Franchises non-exclusive; applicable law and policy favor competition. The cable franchises overseen by the MHCRC on behalf of the Jurisdictions are by their terms non-exclusive, in accordance with applicable law. Federal communications law and policy, as well as associated state and local policies and practice, have for more than two decades strongly encouraged the development of fair and robust competition in U.S. cable and telecommunications markets. Such competition, among other things, promotes technical innovation, reasonable prices, and consumer choice. Nevertheless, the cable operators originally franchised by the Jurisdictions, and their successors, although separately owned and managed for nearly 20 years prior to June, 1999, chose not to extend their cable facilities and compete with each other for customers, despite formal and informal encouragement from the Jurisdictions from time to time. As of June 1, 1999, effective with the final acquisition of the Paragon (Time Warner) cable system by AT&T Broadband, subsequently acquired by Comcast, the consolidation of cable systems and franchises throughout the Portland metropolitan area under single ownership was complete and any remaining possibility for facilities-based competition in the Portland area by separate, incumbent cable operators was effectively extinguished.
- 1.3 FCC Competitive Franchise Application Process (“CFAR”) rule. On December 20, 2006, the Federal Communications Commission (“FCC”) in MB Docket No 05-311, adopted an

amendment to Part 76 of Title 47 of the Code of Federal Regulations (“CFR”) creating a new rule (hereafter “Competitive Franchise Application Rule” or “CFAR”) set forth as 47 CFR §76.41 Franchise Application Process. The FCC CFAR was released March 5, 2007, and is expected to take effect on April 20, 2007. The Order creating the FCC CFAR, among other things, purports to preempt any local franchising laws, regulations and agreements to the extent they conflict with the FCC CFAR. The FCC CFAR provides a separate, nonexclusive process for the issuance of cable franchises for areas currently served by another cable operator in accordance with 47 U.S.C. §541(a)(1). This process includes time limits on negotiating a franchise with a competitive provider. If the local franchising authority does not reach agreement with the applicant on the terms of a franchise agreement or deny the application within the time limit, the FCC CFAR authorizes competitive providers to begin offering service under an interim franchise consisting of the terms of its application.

- 1.4 MHCRC Requirements for Franchise Applications. The MHCRC has previously issued formal Requests for Information (RFI) including criteria for competitive cable franchise applicants based on the timing and nature of applications received (e.g. *MHCRC RFI for Competitive Franchise Applicants*, February 4, 2000). The FCC CFAR, to the extent it provides a separate, nonexclusive, continuing alternative application process for competitive franchise applicants and includes provisions that apply only to such applicants, requires that the MHCRC embody its prior RFI processes and criteria into a CFAR Local Rule setting forth an application and review process that protects the Jurisdictions in light of the new competitive franchising rules. Specifically, because applicants may be deemed to have been granted an interim franchise based on the terms set forth in their application with no opportunity for the MHCRC or the Jurisdictions to alter or amend these terms, the application process must be sufficient to protect the Jurisdictions’ right to regulate access to local rights of way; the Jurisdictions’ federal authority to assure that the cable operator meets community needs and interests; and the Jurisdictions’ authority to ensure compliance with federal, state and local laws.
- 1.5 MHCRC processing of CFAR franchise applications. The MHCRC shall, on behalf of the MHCRC Jurisdictions, process any competitive cable franchise application submitted pursuant to 47 CFR §76.41 under the provisions of the attached CFAR Local Rule and related forms, processes, rules, administrative procedures and application fees subsequently established by the MHCRC. Because the FCC CFAR only applies to new entrants seeking to provide cable service, the CFAR Local Rule will correspondingly apply only to new entrants into the cable services market. Further, although the FCC CFAR purports to preempt existing franchise agreements to the extent they conflict with the FCC CFAR, the MHCRC does not intend to take any action that abrogates any provision of an existing cable franchise agreement.
- 1.6 MHCRC processing of non-CFAR franchise applications. Notwithstanding the CFAR Local Rule, any competitive cable services franchise applicant may elect to submit a cable franchise application to the MHCRC and/or engage in cable franchise negotiations without regard to the application of the FCC CFAR. In such cases, on behalf of the Jurisdictions, the MHCRC is authorized to negotiate the terms of a competitive cable franchise for recommendation to and consideration by the Jurisdictions without regard to 47 CFR §76.41 and the CFAR Local Rule. Agreement by any applicant to negotiate a franchise without regard to 47 CFR §76.41 and the CFAR Local Rule shall not be deemed by the MHCRC to effect a waiver of any franchise applicant’s right under applicable law to trigger application of 47 CFR §76.41 and the CFAR Local Rule, where applicable.

- 1.7 Prompt Jurisdiction Action Recommended on CFAR Local Rule. Implementing the CFAR Local Rule prior to the effective date of the FCC CFAR will protect the Jurisdictions' interests in the event a competitive cable services provider applies for a cable franchise under the FCC CFAR. While the IGA provides the MHCRC with the authority to adopt and implement the CFAR Local Rule and related rules, forms and procedures, adoption of the terms of the CFAR Local Rule by ordinance of each Jurisdiction will prevent confusion and ensure that the appropriate application process, consistent with the IGA, is followed by competitive providers, and that any such application is duly submitted to the MHCRC for consideration, appropriate action, or recommendation to one or more of the Jurisdictions, as applicable, pursuant to the authority vested in the MHCRC by the IGA.

Now, therefore, the Commission resolves:

Section 2.

- 2.1 The MHCRC adopts the CFAR Local Rule, attached hereto as Exhibit A.
- 2.2 Due to the imminent effective date of the FCC CFAR, the MHCRC recommends prompt adoption by the MHCRC Jurisdictions of the CFAR Local Rule by ordinance so that competitive cable franchise applicants are notified of the process that will be carried out by the MHCRC on the Jurisdictions' behalf in the event a competitive cable franchise application pursuant to 47 CFR §76.41 is submitted to the MHCRC or any one or more of the Jurisdictions on or after the effective date of the FCC CFAR..
- 2.3 The MHCRC shall, on behalf of the Jurisdictions, process any competitive cable franchise application submitted pursuant to 47 CFR §76.41 under the provisions of the attached CFAR Local Rule and related forms, processes, rules, administrative procedures and application fees subsequently established by the MHCRC.

RESOLVED BY THE COMMISSION on April 2, 2007.

\_\_\_\_\_  
Norman D. Thomas, Chair

Reviewed by:

\_\_\_\_\_  
Ben Walters, Legal Counsel

Attachment: Exhibit A to MHCRC Res. 2007-02: CFAR Local Rule

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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

Adopting a Competitive Franchise Application Rule in Connection with any Cable Franchise Applications Submitted Under 47 CFR §76.41

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

- a. The Mt. Hood Cable Regulatory Commission (“MHCRC”) was created by intergovernmental agreement (“IGA”), dated 12/24/92 and amended March 1998, to carry out cable regulation and administration on behalf of Multnomah County and the Cities of Portland, Gresham, Troutdale, Fairview and Wood Village (Jurisdictions).
- b. Section 3 of the IGA vests with the MHCRC all the powers, rights and duties necessary to carry out the purposes of the IGA, which includes authority to create a competitive cable franchise application process for any applicant seeking a competitive cable franchise in any of the Jurisdictions.
- c. On December 20, 2006, the Federal Communications Commission (“FCC”) adopted a new rule, 47 CFR § 76.41, released March 5, 2007, that, among other things, provides a separate, nonexclusive process for the issuance of cable franchises for areas currently served by another cable operator (the “Competitive Franchise Application Rule” or “CFAR”). The new FCC rule is expected to take effect on April 20, 2007.
- d. To ensure compliance with the new FCC rule and protect the Jurisdictions’ right to regulate access to local rights of way, on April 2, 2007, by Resolution 2007-02, the MHCRC adopted a Local Rule setting forth a competitive franchise application form and process (“CFAR Local Rule”).
- e. While MHCRC has authority under the IGA to adopt and implement the CFAR Local Rule and related rules, forms and procedures, the County’s adoption of the CFAR Local Rule will prevent confusion and ensure that the appropriate application process, consistent with the IGA, is followed.

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

1. The County adopts the CFAR Local Rule, attached as Exhibit A, and any amendments hereafter made to the CFAR Local Rule by resolution of the MHCRC under the authority delegated to the MHCRC by the IGA.

2. Any application to provide competitive cable services within the County shall be directed to and processed by the MHCRC in accordance with the MHCRC's rules and regulations, including the CFAR Local Rule and related forms, processes, rules, administrative procedures and application fees subsequently established by the MHCRC related to competitive cable franchise applications.

ADOPTED this 12th day of April 2007.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By \_\_\_\_\_  
Katie A. Lane, Assistant County Attorney

SUBMITTED BY:

Lonnie Roberts, Commissioner, District 4

**Exhibit A to MHCRC Res. 2007-02**

**CFAR LOCAL RULE**

Application Form, Instructions and Application Review Process  
for Competitive Franchise Applications  
Submitted to the Mt. Hood Cable Regulatory Commission (MHCRC)  
or Referred to the MHCRC by MHCRC Jurisdictions  
under 47 CFR §76.41

**A. Application of Rule**

Any application for a cable franchise agreement submitted to the MHCRC or an MHCRC Jurisdiction pursuant to 47 CFR §76.41 shall contain the requisite information set forth herein. The MHCRC shall evaluate and make recommendations to the MHCRC Jurisdictions based on the criteria set forth herein.

**B. Definitions**

As used in this local rule, definitions shall be as follows:

- (a) *CFAR Franchise Applicant* means an applicant for a cable franchise pursuant to the provisions of the Competitive Franchise Application Rule ("CFAR") set forth in Part 76 of Title 47 of the Code of Federal Regulations, §76.41.
- (b) *MHCRC* means the Mt. Hood Cable Regulatory Commission created by Intergovernmental Agreement (dated 12/24/92) to carry out cable regulation and administration on behalf of the MHCRC Jurisdictions.
- (c) *MHCRC Jurisdictions* means Multnomah County and the cities of Portland, Gresham, Troutdale, Fairview, and Wood Village, or any one or more MHCRC Jurisdictions, as applicable, whose corporate limits are included, in whole or in part, in a CFAR franchise application.

**C. Competitive Franchise Application Requirements**

**CFAR APPLICATION**

**I. INSTRUCTIONS AND DEFINITIONS**

A CFAR Franchise Applicant shall include the requisite information set forth below, in writing, in its franchise application, in addition to any information required by 47 CFR §76.41 and applicable state and local laws and the application fee set by resolution of the MHCRC. A CFAR Franchise Applicant shall also provide any additional information requested by the MHCRC that is relevant to the evaluation of the application under the criteria adopted herein and applicable law.

The MHCRC shall accept and review only those applications that include complete responses to every element of the information required in this application. Submission of an application that does not include the requisite information set forth below and the application fee shall not commence the time period for granting or denying the application set forth in 47 C.F.R. §76.41(d). If the MHCRC requests any additional information from the CFAR Franchise Applicant, the time period set forth in 47 C.F.R. §76.41(d) shall be tolled from the date the information is requested until the date it is received by the MHCRC.

The CFAR Franchise Applicant shall immediately submit additional or updated information as necessary to ensure the requisite information provided is complete and accurate throughout the MHCRC's or the MHCRC Jurisdictions' review of the application.

Upon request, the MHCRC will promptly provide access to documents or information in its possession or control that are necessary for the completion of this application, provided that the CFAR Franchise Applicant does not otherwise have access to such documents or information and that such documents or information are subject to disclosure under Oregon public records laws.

For the purposes of this application, the terms, phrases, and their derivations set forth below shall have the meanings given unless the context indicates otherwise. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular include the plural number. The word "shall" is always mandatory and not merely directory.

- A. "Affiliated Entity" or "Affiliate" means any entity having ownership or control in common with the Grantee, in whole or in part, including, without limitation, Grantee's Parent Corporations and any subsidiaries or affiliates of such Parent Corporations.
- B. "CFAR Franchise Applicant" means an applicant for a cable franchise pursuant to the provisions of the Competitive Franchise Application Rule ("CFAR") set forth in Part 76 of Title 47 of the Code of Federal Regulations, §76.41, and includes the Parent Corporation, its subsidiaries and Principals.
- C. "Control" is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.
- D. "Interest" includes officers, directors and shareholders owning five percent or more of the CFAR Franchise Applicant's outstanding stock or any equivalent voting interest of a partnership or joint venture.
- E. "MHCRC" means the Mt. Hood Cable Regulatory Commission created by

Intergovernmental Agreement (dated 12/24/92) to carry out cable regulation and administration on behalf of the MHCRC Jurisdictions.

- F. "MHCRC Jurisdictions" means Multnomah County and the cities of Portland, Gresham, Troutdale, Fairview, and Wood Village, or any one or more MHCRC Jurisdictions, as applicable, whose corporate limits are included, in whole or in part, in a CFAR franchise application.
- G. "Parent Corporation" includes any entity with ownership or control of the CFAR Franchise Applicant.
- H. "Principal" includes any person, firm, corporation, partnership, joint venture, affiliates, or other entity, who or which owns or controls five percent or more of the voting stock (or any equivalent voting interest of a partnership or joint venture) of the CFAR Franchise Applicant.
- I. "Regulatory Authority" includes any governmental or quasi-governmental organization or entity with jurisdiction over all or any portion of the CFAR Franchise Applicant or its operations.

## II. REQUISITE INFORMATION

### A. IDENTIFICATION AND OWNERSHIP INFORMATION

#### 1. IDENTIFICATION OF APPLICANT AND PROPOSED FRANCHISEE

- a. State the name, address, telephone number and web site (if applicable) of the CFAR Franchise Applicant and the proposed franchisee (if different from CFAR Franchise Applicant).
- b. State the name, address, primary telephone number and primary e-mail address of all individual(s) authorized to represent the CFAR Franchise Applicant before the MHCRC and/or the MHCRC Jurisdictions during their consideration of the franchise(s) requested, including the CFAR Franchise Applicant's primary contact and any additional authorized contacts.

#### 2. BUSINESS STRUCTURE

- a. Corporation:
  - i. If CFAR Franchise Applicant is a corporation, please list all officers and members of the Board of Directors, their principal affiliations and their addresses;
  - ii. Attach a certified copy of the Articles of Incorporation and Bylaws of the corporation; and
  - iii. State whether the CFAR Franchise Applicant is directly or indirectly controlled by another corporation or legal entity.

If so, attach an explanatory statement and respond to questions 2.a. (i) and (ii) above concerning the controlling corporation.

- b. Partnership:
  - i. If CFAR Franchise Applicant is a partnership, please describe the structure of the partnership and the Interests of general and limited partners.
  - ii. State whether the CFAR Franchise Applicant is controlled directly or indirectly by any corporation or other legal entity. If so, respond to 2.a. (i) – (ii) or 2. b. (i) above, as applicable, concerning the controlling entity.

### 3. EXPERIENCE

#### a. Current Franchises

Please list all cable systems in which the CFAR Franchise Applicant or any Affiliate owns more than five percent of the system. For each system include name of system, address, communities served, number of subscribers, number of homes passed, date of system award, duration (start and end date) of franchise, status of construction, and percent of penetration of homes passed as of most recently available date (indicate date). Also include name, title, and telephone number of system manager.

#### b. Potential Franchises

List communities where the CFAR Franchise Applicant or any Affiliate currently has a formal or informal request pending for an initial franchise, the renewal of a franchise, or the approval of a transfer of ownership. Include name of communities, date of application, date of expected action, estimated number of homes.

### 4. MANAGEMENT STRUCTURE

Attach a management/organizational chart, showing the management structure of the CFAR Franchise Applicant. Also, provide a similar chart showing the relationship of the CFAR Franchise Applicant to all general partners, Parent Corporations, subsidiaries, Affiliates and all other subsidiaries of Parent Corporations, including a brief description of each entity's relationship to the CFAR Franchise Applicant.

### 5. MANAGEMENT AGREEMENT

State whether there are any management agreements existing or proposed between the CFAR Franchise Applicant and any Parent Corporation or Affiliate related to construction and operation of the CFAR Franchise Applicant's planned system in MHCRC Jurisdictions. If yes, attach a copy of any such agreement.

6. MANAGEMENT FEES

List all entities entitled to receive management or other fees for the income produced by the CFAR Franchise Applicant's planned systems. Identify amounts or percentages of fees for each such entity.

B. LEGAL QUALIFICATIONS

1. MEDIA CROSS-OWNERSHIP

Section 613 of the Cable Communications Policy Act of 1984, 47 U.S.C. §533 (a), and applicable FCC rules prohibit certain forms of media cross-ownership. Please state whether the CFAR Franchise Applicant or an Affiliate directly or indirectly owns, operates, controls or has an Interest in any of the following, OR whether the CFAR Franchise Applicant holds or operates any company or business operating jointly with any of the following:

- a. A national broadcast television network (such as ABC, CBS or NBC, etc.).
- b. A television broadcast station whose predicted Grade B contour, computed in accordance with Section 73.684 of the FCC's rules, overlaps in whole or in part the MHCRC Jurisdictions' service area, or an application for license to operate such a station.
- c. A telecommunications or telephone company whose service area includes any portion of the MHCRC Jurisdictions' service area.

If the response to any of the above is affirmative, state the name of the CFAR Franchise Applicant or Affiliate, the nature and percentage of ownership or Interest and the company that is owned or in which the Interest is held.

2. EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

Federal Law requires cable system operators to be certified by the Federal Communications Commission (FCC) as being in compliance with the equal employment opportunity requirements of §634(e) of the Cable Communications Policy Act of 1984, 47 U.S.C. §554(e). The CFAR Franchise Applicant shall attach any current FCC certification(s) for its

existing cable system holdings, if any, or indicate its intention to apply for and abide by same.

3. FRANCHISE VIOLATIONS

State whether the CFAR Franchise Applicant or any Affiliate been found in violation by a Regulatory Authority or franchising authority of any franchise ordinance or agreement, contract or regulation governing a cable system. If so, identify the judicial or administrative proceeding, giving the date, name of tribunal and result or disposition of that proceeding.

4. OTHER VIOLATIONS

State whether the CFAR Franchise Applicant been found in violation by a Regulatory Authority of any other type (e.g. utility) of franchise, ordinance, agreement, permit, contract or regulation. If so, identify the judicial or administrative proceeding, giving the date, name of tribunal and result or disposition of that proceeding.

C. FINANCIAL QUALIFICATIONS

1. For CFAR Franchise Applicants with existing operations: provide audited financial statements, including statements of income, balance sheets and cash flow statements, together with any notes necessary to the understanding of the financial statements for the last three fiscal years for the CFAR Franchise Applicant and any Parent Corporation.
2. For CFAR Franchise Applicants who are new (start-up) entities: provide pro forma projections for the next five fiscal years, if available, but at a minimum the next three fiscal years from the date of the application.

D. TECHNICAL QUALIFICATIONS, PLANNED SERVICES AND OPERATIONS

1. Describe the CFAR Franchise Applicant's planned initial and proposed cable services geographic area, including a map and proposed dates for offering service to each area;
2. If the CFAR Franchise Applicant has or asserts existing authority to access the public right of way in any of the initial or proposed service areas listed in D.1. above, state the basis for such authority or asserted authority and attach the relevant agreements or other documentation of such authority;
3. Describe with particularity the CFAR Franchise Applicant's planned residential Cable services, including basic cable services, cable programming service tier, and any additional pay-per-view, on-demand or digital services; and the projected rates for each category or tier or service;
4. Describe with particularity the CFAR Franchise Applicant's planned

- system technical design, upstream and downstream capacity and speed, provision for analog or digital services or packages, distribution of fiber, and planned count of households per residential node;
5. Describe with particularity the CFAR Franchise Applicant's planned non-residential cable services;
  6. Describe the CFAR Franchise Applicant's planned construction and extension or phase schedule, as applicable, including system extension plans or policy; describe current status of the CFAR Franchise Applicant's existing or proposed arrangements with area utilities, including pole attachments, vault, or conduit sharing agreements as applicable;
  7. Describe the CFAR Franchise Applicant's plan to ensure that the safety, functioning and appearance of property and convenience and safety of other persons not be adversely affected by installation or construction of the CFAR Franchise Applicant's facilities, and that property owners are justly compensated for any damages caused by the installation, construction, operation or removal of the facilities; also state the proposed allocation of costs of installation, construction, operation or removal of facilities between the CFAR Franchise Applicant and the subscriber;
  8. Describe the availability and cost of a device to enable a subscriber to block obscene or indecent programming; and
  9. Describe the CFAR Franchise Applicant's plan to comply with the subscriber privacy protections set forth in 47 U.S.C. §551.

E. PROPOSED FRANCHISE TERMS

State the franchise terms proposed by the CFAR Franchise Applicant for each of the following:

1. Term of Franchise;
2. With respect to PEG:
  - a. PEG access, including channel capacity, programming, a description of proposed services, facilities and equipment, and the CFAR Franchise Applicant's plan for interconnections with existing PEG facilities and designated PEG providers in existing MHCRC cable franchise areas to provide PEG programming of adequate technical quality; and
  - b. PEG capital support;
3. With respect to Institutional Networks:
  - a. Capacity and services to be provided, including a description of the network and equipment to be installed, activated, maintained or interconnected with existing institutional networks, potential sites to be served, and proposed technical means of interconnection, where applicable; and
  - b. Institutional network capital support;
4. Franchise fee payments, including a statement of all planned categories of cable revenue included in "gross revenues" for purposes of the fee (or a

detailed description of the fee base if not based on gross revenues), and any proposed limitation on the MHCRC's and MHCRC Jurisdiction's access to relevant books and records to verify timely and accurate payment;

5. Amount of insurance coverage planned for CFAR Franchise Applicant operations, services and activities on behalf of the MHCRC Jurisdictions in whose corporate boundaries the CFAR Franchise Applicant proposes to provide service; the scope of the coverage; and the length of time the policy is planned to be effective;
6. Amount of performance bond in favor of the MHCRC Jurisdictions in whose corporate boundaries the CFAR Franchise Applicant proposes to provide service to ensure the CFAR Franchise Applicant observes, fulfills and performs each term and condition of the franchise; any limitations on the exercise of the bond; and length of time the bond is planned to be effective;
7. Terms of indemnity to be provided to the MHCRC Jurisdictions in whose corporate boundaries the CFAR Franchise Applicant proposes to provide service;
8. Existing right of way authority, if any, and terms of use of the rights of way in the MHCRC Jurisdictions in whose corporate boundaries the CFAR Franchise Applicant proposes to provide service;
9. Technical and operational standards, including performance testing and appropriate sanctions for failure to meet standards; and
10. Customer service and consumer protection standards or policies, including but not limited to telephone, billing and repair response times, customer service representative (CSR) ratio to subscriber base, the method of evaluating the adequacy of customer service, reporting procedures and penalties for failure to meet standards.

For each item listed above, the CFAR Franchise Applicant shall provide a summary with sufficient detail to demonstrate the manner in which each term proposed by the CFAR Franchise Applicant compares to corollary or reasonably related terms in any cable franchise currently in effect in any of the MHCRC Jurisdictions, the most recent needs ascertainment conducted by or on behalf of the MHCRC or the MHCRC Jurisdictions, and local customer service standards.

#### F. MISCELLANEOUS PROVISIONS

1. State whether the CFAR Franchise Applicant contemplates the provision of any cable services on its system under an Open Video Systems ("OVS") regulatory regime, within the meaning of Section 653 of the 1934 Communications Act (47 U.S.C. §573).
2. Provide a short narrative describing the CFAR Franchise Applicant's experience in and plans for providing Equal Employment Opportunity, Affirmative Action and Minority Business Enterprise utilization.

3. Provide a short narrative describing the CFAR Franchise Applicant's experience in and/or goals for satisfactory cable subscriber customer service.

### III. AFFIDAVIT OF APPLICANT

Each application shall be accompanied by an affidavit substantially in the form set forth below:

This application of the CFAR Franchise Applicant is submitted by the undersigned who has been duly authorized to make the representations within on behalf of the CFAR Franchise Applicant and certifies the representations are true and correct.

The CFAR Franchise Applicant recognizes that all representations are binding on it and that material misrepresentations or omissions, or failure to adhere to any such representation may result in a negative MHCRC recommendation to the MHCRC Jurisdictions, or denial of a CFAR franchise application by a MHCRC Jurisdiction.

Consent is hereby given to the MHCRC, the MHCRC Jurisdictions, and their representatives to make inquiry into the legal, character, technical, financial and other qualifications of the CFAR Franchise Applicant by contacting any persons or organizations named herein as references, or by any other appropriate means.

The CFAR Franchise Applicant recognizes that information submitted is open to public inspection and subject to the Oregon Public Records Law. We advise the CFAR Franchise Applicant to be familiar with the Oregon Public Records Law. The CFAR Franchise Applicant should specifically identify any information it considers proprietary. In the event that the MHCRC and/or the MHCRC Jurisdictions receive a request from another party to disclose any information which the CFAR Franchise Applicant has deemed proprietary, the MHCRC and/or the MHCRC Jurisdictions, as appropriate, will tender to the CFAR Franchise Applicant the defense of any request to compel disclosure. By submitting information which the CFAR Franchise Applicant deems proprietary or otherwise exempt from disclosure, the CFAR Franchise Applicant agrees to defend and hold harmless the MHCRC and the MHCRC Jurisdictions from any claim for disclosure including but not limited to any expenses including out-of-pocket costs and attorneys' fees, as well as any judgment entered against the MHCRC or the MHCRC Jurisdictions for the attorney fees of the party requesting disclosure.

Name of CFAR Franchise Applicant's Authorized Representative:

Affiant's Signature:

Official Position:

Date:

NOTARIZATION

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 200\_.

Notary Public for Oregon:

My Commission expires: \_\_\_\_\_.

**D. Application Fee**

The MHCRC shall, by resolution, set an application fee sufficient to cover the reasonable cost of processing applications under this Local Rule. Upon request of the CFAR Franchise Applicant, the MHCRC may reduce or waive the application fee. In evaluating such a request, the MHCRC will consider the following factors: (1) the size of the proposed franchise area; (2) the number of potential subscribers in the proposed franchise area; (3) the financial hardship to the CFAR Franchise Applicant (including any parent corporation or affiliate); and (4) other information relevant to the cost of processing the application and/or the CFAR Franchise Applicant's ability to pay the fee.

**E. Review Process**

I. Acceptance of Application.

Within 5 business days of receipt of an application, MHCRC staff shall review the application to ensure all requisite information is included in the application.

- A. If the application is not complete, staff will immediately notify the CFAR Franchise Applicant in writing, listing the requisite information that is required to complete the application and notifying the CFAR Franchise Applicant of the time period for granting or denying the application set forth in 47 C.F.R. § 76.41(d) will not begin to run until such information is received.
- B. If the application is complete, staff will immediately notify the CFAR Franchise Applicant in writing that all requisite information has been received.

II. Staff Review.

MHCRC staff shall review all completed applications based on the review criteria set forth herein. If, during the review of an application, staff requires additional information from the CFAR Franchise Applicant, staff will promptly request the information from the

CFAR Franchise Applicant, in writing, along with a notification that the time period for granting or denying the application set forth in 47 C.F.R. § 76.41(d) will be tolled until such information is received by the MHCRC. After completing the review, staff shall provide an analysis of the application to the MHCRC.

### III. Public Hearing.

The MHCRC shall hold a public hearing affording participants a process substantially equivalent to that required by 47 U.S.C. §546(c)(2) governing renewal of cable franchises.

### IV. Review Criteria.

The MHCRC may recommend to the MHCRC Jurisdictions that they deny and MHCRC Jurisdictions may deny an application if, based on the information provided in the application, at the public hearing and/or any terms of a proposed franchise agreement:

- A. The CFAR Franchise Applicant does not have the financial, technical, or legal qualifications to provide cable service;
- B. The CFAR Franchise Applicant will not provide adequate public, educational, and governmental access channel capacity, facilities, or financial support, as evidenced by the most recent needs ascertainment conducted by or on behalf of the MHCRC or the MHCRC Jurisdictions, or other relevant study of community needs; or
- C. The CFAR Franchise Applicant's proposed terms do not comply with applicable federal, state and local laws and regulations including, but not limited to, local customer service standards, or relevant existing contractual obligations of the MHCRC Jurisdictions.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 07-053**

Adopting a Competitive Franchise Application Rule in Connection with any Cable Franchise Applications Submitted Under 47 CFR §76.41

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

- a. The Mt. Hood Cable Regulatory Commission (“MHCRC”) was created by intergovernmental agreement (“IGA”), dated 12/24/92 and amended March 1998, to carry out cable regulation and administration on behalf of Multnomah County and the Cities of Portland, Gresham, Troutdale, Fairview and Wood Village (Jurisdictions).
- b. Section 3 of the IGA vests with the MHCRC all the powers, rights and duties necessary to carry out the purposes of the IGA, which includes authority to create a competitive cable franchise application process for any applicant seeking a competitive cable franchise in any of the Jurisdictions.
- c. On December 20, 2006, the Federal Communications Commission (“FCC”) adopted a new rule, 47 CFR § 76.41, released March 5, 2007, that, among other things, provides a separate, nonexclusive process for the issuance of cable franchises for areas currently served by another cable operator (the “Competitive Franchise Application Rule” or “CFAR”). The new FCC rule is expected to take effect on April 20, 2007.
- d. To ensure compliance with the new FCC rule and protect the Jurisdictions’ right to regulate access to local rights of way, on April 2, 2007, by Resolution 2007-02, the MHCRC adopted a Local Rule setting forth a competitive franchise application form and process (“CFAR Local Rule”).
- e. While MHCRC has authority under the IGA to adopt and implement the CFAR Local Rule and related rules, forms and procedures, the County’s adoption of the CFAR Local Rule will prevent confusion and ensure that the appropriate application process, consistent with the IGA, is followed.

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

1. The County adopts the CFAR Local Rule, attached as Exhibit A, and any amendments hereafter made to the CFAR Local Rule by resolution of the MHCRC under the authority delegated to the MHCRC by the IGA.

2. Any application to provide competitive cable services within the County shall be directed to and processed by the MHCRC in accordance with the MHCRC's rules and regulations, including the CFAR Local Rule and related forms, processes, rules, administrative procedures and application fees subsequently established by the MHCRC related to competitive cable franchise applications.

ADOPTED this 12th day of April 2007.

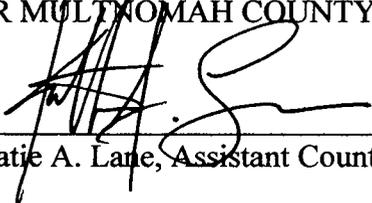


BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Katie A. Lane, Assistant County Attorney

SUBMITTED BY:

Lonnie Roberts, Commissioner, District 4

**Exhibit A to MHCRC Res. 2007-02**

**CFAR LOCAL RULE**

Application Form, Instructions and Application Review Process  
for Competitive Franchise Applications  
Submitted to the Mt. Hood Cable Regulatory Commission (MHCRC)  
or Referred to the MHCRC by MHCRC Jurisdictions  
under 47 CFR §76.41

**A. Application of Rule**

Any application for a cable franchise agreement submitted to the MHCRC or an MHCRC Jurisdiction pursuant to 47 CFR §76.41 shall contain the requisite information set forth herein. The MHCRC shall evaluate and make recommendations to the MHCRC Jurisdictions based on the criteria set forth herein.

**B. Definitions**

As used in this local rule, definitions shall be as follows:

- (a) *CFAR Franchise Applicant* means an applicant for a cable franchise pursuant to the provisions of the Competitive Franchise Application Rule ("CFAR") set forth in Part 76 of Title 47 of the Code of Federal Regulations, §76.41.
- (b) *MHCRC* means the Mt. Hood Cable Regulatory Commission created by Intergovernmental Agreement (dated 12/24/92) to carry out cable regulation and administration on behalf of the MHCRC Jurisdictions.
- (c) *MHCRC Jurisdictions* means Multnomah County and the cities of Portland, Gresham, Troutdale, Fairview, and Wood Village, or any one or more MHCRC Jurisdictions, as applicable, whose corporate limits are included, in whole or in part, in a CFAR franchise application.

**C. Competitive Franchise Application Requirements**

**CFAR APPLICATION**

**I. INSTRUCTIONS AND DEFINITIONS**

A CFAR Franchise Applicant shall include the requisite information set forth below, in writing, in its franchise application, in addition to any information required by 47 CFR §76.41 and applicable state and local laws and the application fee set by resolution of the MHCRC. A CFAR Franchise Applicant shall also provide any additional information requested by the MHCRC that is relevant to the evaluation of the application under the criteria adopted herein and applicable law.

The MHCRC shall accept and review only those applications that include complete responses to every element of the information required in this application. Submission of an application that does not include the requisite information set forth below and the application fee shall not commence the time period for granting or denying the application set forth in 47 C.F.R. §76.41(d). If the MHCRC requests any additional information from the CFAR Franchise Applicant, the time period set forth in 47 C.F.R. §76.41(d) shall be tolled from the date the information is requested until the date it is received by the MHCRC.

The CFAR Franchise Applicant shall immediately submit additional or updated information as necessary to ensure the requisite information provided is complete and accurate throughout the MHCRC's or the MHCRC Jurisdictions' review of the application.

Upon request, the MHCRC will promptly provide access to documents or information in its possession or control that are necessary for the completion of this application, provided that the CFAR Franchise Applicant does not otherwise have access to such documents or information and that such documents or information are subject to disclosure under Oregon public records laws.

For the purposes of this application, the terms, phrases, and their derivations set forth below shall have the meanings given unless the context indicates otherwise. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular include the plural number. The word "shall" is always mandatory and not merely directory.

- A. "Affiliated Entity" or "Affiliate" means any entity having ownership or control in common with the Grantee, in whole or in part, including, without limitation, Grantee's Parent Corporations and any subsidiaries or affiliates of such Parent Corporations.
- B. "CFAR Franchise Applicant" means an applicant for a cable franchise pursuant to the provisions of the Competitive Franchise Application Rule ("CFAR") set forth in Part 76 of Title 47 of the Code of Federal Regulations, §76.41, and includes the Parent Corporation, its subsidiaries and Principals.
- C. "Control" is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.
- D. "Interest" includes officers, directors and shareholders owning five percent or more of the CFAR Franchise Applicant's outstanding stock or any equivalent voting interest of a partnership or joint venture.
- E. "MHCRC" means the Mt. Hood Cable Regulatory Commission created by

Intergovernmental Agreement (dated 12/24/92) to carry out cable regulation and administration on behalf of the MHCRC Jurisdictions.

- F. "MHCRC Jurisdictions" means Multnomah County and the cities of Portland, Gresham, Troutdale, Fairview, and Wood Village, or any one or more MHCRC Jurisdictions, as applicable, whose corporate limits are included, in whole or in part, in a CFAR franchise application.
- G. "Parent Corporation" includes any entity with ownership or control of the CFAR Franchise Applicant.
- H. "Principal" includes any person, firm, corporation, partnership, joint venture, affiliates, or other entity, who or which owns or controls five percent or more of the voting stock (or any equivalent voting interest of a partnership or joint venture) of the CFAR Franchise Applicant.
- I. "Regulatory Authority" includes any governmental or quasi-governmental organization or entity with jurisdiction over all or any portion of the CFAR Franchise Applicant or its operations.

## II. REQUISITE INFORMATION

### A. IDENTIFICATION AND OWNERSHIP INFORMATION

#### 1. IDENTIFICATION OF APPLICANT AND PROPOSED FRANCHISEE

- a. State the name, address, telephone number and web site (if applicable) of the CFAR Franchise Applicant and the proposed franchisee (if different from CFAR Franchise Applicant).
- b. State the name, address, primary telephone number and primary e-mail address of all individual(s) authorized to represent the CFAR Franchise Applicant before the MHCRC and/or the MHCRC Jurisdictions during their consideration of the franchise(s) requested, including the CFAR Franchise Applicant's primary contact and any additional authorized contacts.

#### 2. BUSINESS STRUCTURE

- a. Corporation:
  - i. If CFAR Franchise Applicant is a corporation, please list all officers and members of the Board of Directors, their principal affiliations and their addresses;
  - ii. Attach a certified copy of the Articles of Incorporation and Bylaws of the corporation; and
  - iii. State whether the CFAR Franchise Applicant is directly or indirectly controlled by another corporation or legal entity.

If so, attach an explanatory statement and respond to questions 2.a. (i) and (ii) above concerning the controlling corporation.

- b. Partnership:
  - i. If CFAR Franchise Applicant is a partnership, please describe the structure of the partnership and the Interests of general and limited partners.
  - ii. State whether the CFAR Franchise Applicant is controlled directly or indirectly by any corporation or other legal entity. If so, respond to 2.a. (i) – (ii) or 2. b. (i) above, as applicable, concerning the controlling entity.

3. EXPERIENCE

a. Current Franchises

Please list all cable systems in which the CFAR Franchise Applicant or any Affiliate owns more than five percent of the system. For each system include name of system, address, communities served, number of subscribers, number of homes passed, date of system award, duration (start and end date) of franchise, status of construction, and percent of penetration of homes passed as of most recently available date (indicate date). Also include name, title, and telephone number of system manager.

b. Potential Franchises

List communities where the CFAR Franchise Applicant or any Affiliate currently has a formal or informal request pending for an initial franchise, the renewal of a franchise, or the approval of a transfer of ownership. Include name of communities, date of application, date of expected action, estimated number of homes.

4. MANAGEMENT STRUCTURE

Attach a management/organizational chart, showing the management structure of the CFAR Franchise Applicant. Also, provide a similar chart showing the relationship of the CFAR Franchise Applicant to all general partners, Parent Corporations, subsidiaries, Affiliates and all other subsidiaries of Parent Corporations, including a brief description of each entity's relationship to the CFAR Franchise Applicant.

5. MANAGEMENT AGREEMENT

State whether there are any management agreements existing or proposed between the CFAR Franchise Applicant and any Parent Corporation or Affiliate related to construction and operation of the CFAR Franchise Applicant's planned system in MHCRC Jurisdictions. If yes, attach a copy of any such agreement.

6. MANAGEMENT FEES

List all entities entitled to receive management or other fees for the income produced by the CFAR Franchise Applicant's planned systems. Identify amounts or percentages of fees for each such entity.

B. LEGAL QUALIFICATIONS

1. MEDIA CROSS-OWNERSHIP

Section 613 of the Cable Communications Policy Act of 1984, 47 U.S.C. §533 (a), and applicable FCC rules prohibit certain forms of media cross-ownership. Please state whether the CFAR Franchise Applicant or an Affiliate directly or indirectly owns, operates, controls or has an Interest in any of the following, OR whether the CFAR Franchise Applicant holds or operates any company or business operating jointly with any of the following:

- a. A national broadcast television network (such as ABC, CBS or NBC, etc.).
- b. A television broadcast station whose predicted Grade B contour, computed in accordance with Section 73.684 of the FCC's rules, overlaps in whole or in part the MHCRC Jurisdictions' service area, or an application for license to operate such a station.
- c. A telecommunications or telephone company whose service area includes any portion of the MHCRC Jurisdictions' service area.

If the response to any of the above is affirmative, state the name of the CFAR Franchise Applicant or Affiliate, the nature and percentage of ownership or Interest and the company that is owned or in which the Interest is held.

2. EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

Federal Law requires cable system operators to be certified by the Federal Communications Commission (FCC) as being in compliance with the equal employment opportunity requirements of §634(e) of the Cable Communications Policy Act of 1984, 47 U.S.C. §554(e). The CFAR Franchise Applicant shall attach any current FCC certification(s) for its

existing cable system holdings, if any, or indicate its intention to apply for and abide by same.

3. **FRANCHISE VIOLATIONS**

State whether the CFAR Franchise Applicant or any Affiliate been found in violation by a Regulatory Authority or franchising authority of any franchise ordinance or agreement, contract or regulation governing a cable system. If so, identify the judicial or administrative proceeding, giving the date, name of tribunal and result or disposition of that proceeding.

4. **OTHER VIOLATIONS**

State whether the CFAR Franchise Applicant been found in violation by a Regulatory Authority of any other type (e.g. utility) of franchise, ordinance, agreement, permit, contract or regulation. If so, identify the judicial or administrative proceeding, giving the date, name of tribunal and result or disposition of that proceeding.

C. **FINANCIAL QUALIFICATIONS**

1. For CFAR Franchise Applicants with existing operations: provide audited financial statements, including statements of income, balance sheets and cash flow statements, together with any notes necessary to the understanding of the financial statements for the last three fiscal years for the CFAR Franchise Applicant and any Parent Corporation.
2. For CFAR Franchise Applicants who are new (start-up) entities: provide pro forma projections for the next five fiscal years, if available, but at a minimum the next three fiscal years from the date of the application.

D. **TECHNICAL QUALIFICATIONS, PLANNED SERVICES AND OPERATIONS**

1. Describe the CFAR Franchise Applicant's planned initial and proposed cable services geographic area, including a map and proposed dates for offering service to each area;
2. If the CFAR Franchise Applicant has or asserts existing authority to access the public right of way in any of the initial or proposed service areas listed in D.1. above, state the basis for such authority or asserted authority and attach the relevant agreements or other documentation of such authority;
3. Describe with particularity the CFAR Franchise Applicant's planned residential Cable services, including basic cable services, cable programming service tier, and any additional pay-per-view, on-demand or digital services; and the projected rates for each category or tier or service;
4. Describe with particularity the CFAR Franchise Applicant's planned

- system technical design, upstream and downstream capacity and speed, provision for analog or digital services or packages, distribution of fiber, and planned count of households per residential node;
5. Describe with particularity the CFAR Franchise Applicant's planned non-residential cable services;
  6. Describe the CFAR Franchise Applicant's planned construction and extension or phase schedule, as applicable, including system extension plans or policy; describe current status of the CFAR Franchise Applicant's existing or proposed arrangements with area utilities, including pole attachments, vault, or conduit sharing agreements as applicable;
  7. Describe the CFAR Franchise Applicant's plan to ensure that the safety, functioning and appearance of property and convenience and safety of other persons not be adversely affected by installation or construction of the CFAR Franchise Applicant's facilities, and that property owners are justly compensated for any damages caused by the installation, construction, operation or removal of the facilities; also state the proposed allocation of costs of installation, construction, operation or removal of facilities between the CFAR Franchise Applicant and the subscriber;
  8. Describe the availability and cost of a device to enable a subscriber to block obscene or indecent programming; and
  9. Describe the CFAR Franchise Applicant's plan to comply with the subscriber privacy protections set forth in 47 U.S.C. §551.

E. PROPOSED FRANCHISE TERMS

State the franchise terms proposed by the CFAR Franchise Applicant for each of the following:

1. Term of Franchise;
2. With respect to PEG:
  - a. PEG access, including channel capacity, programming, a description of proposed services, facilities and equipment, and the CFAR Franchise Applicant's plan for interconnections with existing PEG facilities and designated PEG providers in existing MHCRC cable franchise areas to provide PEG programming of adequate technical quality; and
  - b. PEG capital support;
3. With respect to Institutional Networks:
  - a. Capacity and services to be provided, including a description of the network and equipment to be installed, activated, maintained or interconnected with existing institutional networks, potential sites to be served, and proposed technical means of interconnection, where applicable; and
  - b. Institutional network capital support;
4. Franchise fee payments, including a statement of all planned categories of cable revenue included in "gross revenues" for purposes of the fee (or a

detailed description of the fee base if not based on gross revenues), and any proposed limitation on the MHCRC's and MHCRC Jurisdiction's access to relevant books and records to verify timely and accurate payment;

5. Amount of insurance coverage planned for CFAR Franchise Applicant operations, services and activities on behalf of the MHCRC Jurisdictions in whose corporate boundaries the CFAR Franchise Applicant proposes to provide service; the scope of the coverage; and the length of time the policy is planned to be effective;
6. Amount of performance bond in favor of the MHCRC Jurisdictions in whose corporate boundaries the CFAR Franchise Applicant proposes to provide service to ensure the CFAR Franchise Applicant observes, fulfills and performs each term and condition of the franchise; any limitations on the exercise of the bond; and length of time the bond is planned to be effective;
7. Terms of indemnity to be provided to the MHCRC Jurisdictions in whose corporate boundaries the CFAR Franchise Applicant proposes to provide service;
8. Existing right of way authority, if any, and terms of use of the rights of way in the MHCRC Jurisdictions in whose corporate boundaries the CFAR Franchise Applicant proposes to provide service;
9. Technical and operational standards, including performance testing and appropriate sanctions for failure to meet standards; and
10. Customer service and consumer protection standards or policies, including but not limited to telephone, billing and repair response times, customer service representative (CSR) ratio to subscriber base, the method of evaluating the adequacy of customer service, reporting procedures and penalties for failure to meet standards.

For each item listed above, the CFAR Franchise Applicant shall provide a summary with sufficient detail to demonstrate the manner in which each term proposed by the CFAR Franchise Applicant compares to corollary or reasonably related terms in any cable franchise currently in effect in any of the MHCRC Jurisdictions, the most recent needs ascertainment conducted by or on behalf of the MHCRC or the MHCRC Jurisdictions, and local customer service standards.

#### F. MISCELLANEOUS PROVISIONS

1. State whether the CFAR Franchise Applicant contemplates the provision of any cable services on its system under an Open Video Systems ("OVS") regulatory regime, within the meaning of Section 653 of the 1934 Communications Act (47 U.S.C. §573).
2. Provide a short narrative describing the CFAR Franchise Applicant's experience in and plans for providing Equal Employment Opportunity, Affirmative Action and Minority Business Enterprise utilization.

3. Provide a short narrative describing the CFAR Franchise Applicant's experience in and/or goals for satisfactory cable subscriber customer service.

### III. AFFIDAVIT OF APPLICANT

Each application shall be accompanied by an affidavit substantially in the form set forth below:

This application of the CFAR Franchise Applicant is submitted by the undersigned who has been duly authorized to make the representations within on behalf of the CFAR Franchise Applicant and certifies the representations are true and correct.

The CFAR Franchise Applicant recognizes that all representations are binding on it and that material misrepresentations or omissions, or failure to adhere to any such representation may result in a negative MHCRC recommendation to the MHCRC Jurisdictions, or denial of a CFAR franchise application by a MHCRC Jurisdiction.

Consent is hereby given to the MHCRC, the MHCRC Jurisdictions, and their representatives to make inquiry into the legal, character, technical, financial and other qualifications of the CFAR Franchise Applicant by contacting any persons or organizations named herein as references, or by any other appropriate means.

The CFAR Franchise Applicant recognizes that information submitted is open to public inspection and subject to the Oregon Public Records Law. We advise the CFAR Franchise Applicant to be familiar with the Oregon Public Records Law. The CFAR Franchise Applicant should specifically identify any information it considers proprietary. In the event that the MHCRC and/or the MHCRC Jurisdictions receive a request from another party to disclose any information which the CFAR Franchise Applicant has deemed proprietary, the MHCRC and/or the MHCRC Jurisdictions, as appropriate, will tender to the CFAR Franchise Applicant the defense of any request to compel disclosure. By submitting information which the CFAR Franchise Applicant deems proprietary or otherwise exempt from disclosure, the CFAR Franchise Applicant agrees to defend and hold harmless the MHCRC and the MHCRC Jurisdictions from any claim for disclosure including but not limited to any expenses including out-of-pocket costs and attorneys' fees, as well as any judgment entered against the MHCRC or the MHCRC Jurisdictions for the attorney fees of the party requesting disclosure.

Name of CFAR Franchise Applicant's Authorized Representative:

Affiant's Signature:

Official Position:

Date:

## NOTARIZATION

Subscribed and sworn before me this \_\_\_\_ day of \_\_\_\_, 200\_\_.

Notary Public for Oregon:

My Commission expires: \_\_\_\_\_.

### **D. Application Fee**

The MHCRC shall, by resolution, set an application fee sufficient to cover the reasonable cost of processing applications under this Local Rule. Upon request of the CFAR Franchise Applicant, the MHCRC may reduce or waive the application fee. In evaluating such a request, the MHCRC will consider the following factors: (1) the size of the proposed franchise area; (2) the number of potential subscribers in the proposed franchise area; (3) the financial hardship to the CFAR Franchise Applicant (including any parent corporation or affiliate); and (4) other information relevant to the cost of processing the application and/or the CFAR Franchise Applicant's ability to pay the fee.

### **E. Review Process**

#### **I. Acceptance of Application.**

Within 5 business days of receipt of an application, MHCRC staff shall review the application to ensure all requisite information is included in the application.

- A. If the application is not complete, staff will immediately notify the CFAR Franchise Applicant in writing, listing the requisite information that is required to complete the application and notifying the CFAR Franchise Applicant that the time period for granting or denying the application set forth in 47 C.F.R. § 76.41(d) will not begin to run until such information is received.
- B. If the application is complete, staff will immediately notify the CFAR Franchise Applicant in writing that all requisite information has been received.

#### **II. Staff Review.**

MHCRC staff shall review all completed applications based on the review criteria set forth herein. If, during the review of an application, staff requires additional information from the CFAR Franchise Applicant, staff will promptly request the information from the

CFAR Franchise Applicant, in writing, along with a notification that the time period for granting or denying the application set forth in 47 C.F.R. § 76.41(d) will be tolled until such information is received by the MHCRC. After completing the review, staff shall provide an analysis of the application to the MHCRC.

### III. Public Hearing.

The MHCRC shall hold a public hearing affording participants a process substantially equivalent to that required by 47 U.S.C. §546(c)(2) governing renewal of cable franchises.

### IV. Review Criteria.

The MHCRC may recommend to the MHCRC Jurisdictions that they deny and MHCRC Jurisdictions may deny an application if, based on the information provided in the application, at the public hearing and/or any terms of a proposed franchise agreement:

- A. The CFAR Franchise Applicant does not have the financial, technical, or legal qualifications to provide cable service;
- B. The CFAR Franchise Applicant will not provide adequate public, educational, and governmental access channel capacity, facilities, or financial support, as evidenced by the most recent needs ascertainment conducted by or on behalf of the MHCRC or the MHCRC Jurisdictions, or other relevant study of community needs; or
- C. The CFAR Franchise Applicant's proposed terms do not comply with applicable federal, state and local laws and regulations including, but not limited to, local customer service standards, or relevant existing contractual obligations of the MHCRC Jurisdictions.



**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST (short form)**

**Board Clerk Use Only**

**Meeting Date:** 04/12/07  
**Agenda Item #:** R-4  
**Est. Start Time:** 10:00 AM  
**Date Submitted:** 04/05/07

**Agenda Title:** **RESOLUTION Accepting the Recommendations of the Business Income Tax (BIT) Reform Workgroup to Ease the Burden on Small Business, Stabilize BIT Revenues, Improve Our Local Business Climate, and Directing the Chair to Implement BIT Reforms**

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

**Requested Meeting Date:** April 12, 2007      **Amount of Time Needed:** 30 minutes  
**Department:** Non-Departmental      **Division:** Commissioner, District 2  
**Contact(s):** Jeff Cogen, Marissa Madrigal, Warren Fish  
**Phone:** 503 988-5219      **Ext.** 85219      **I/O Address:** 503/600  
**Presenter(s):** Jeff Cogen, Travis Stovall, and Members of the BIT Reform Workgroup

**General Information**

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

Adopting reforms to the Multnomah County Business Income Tax (BIT) system.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

The Board created a BIT Reform Workgroup on March 1, 2007 to study recent changes to the City of Portland's BLF system and to determine if similar reforms should be adopted for the BIT. After extensive study and analysis, the BIT Reform Workgroup has completed a set of recommendations and asks the Board of County Commissioners to consider them. The workgroup suggests that the County adopt reforms identical to what the City of Portland adopted for the BLF, and to institute a \$100 minimum like the City has for the BLF. Together, these changes would bring the BIT system into close alignment with the BLF. The Owner's Compensation Deduction would be raised from \$61,500 to \$80,000; the Gross Receipts Exemption would be raised from \$25,000 to \$50,000; a \$100 minimum would be imposed. Details on tiers for the progressive minimum and how that minimum would apply will be determined in collaboration with the City of Portland. All of these

reforms will take effect for tax year 2008.

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

There is no impact in the current fiscal year as the proposed changes would not begin until next tax year.

Based on past tax collection history, it is estimated that increasing the Owner's Compensation Deduction to \$80,000 and increasing the Gross Receipts Exemption to \$50,000 will reduce tax revenues by approximately \$1.7 million for tax year 2008. Imposition of a \$100 minimum BIT payment will increase tax revenues by approximately \$1 million if it is imposed at the \$50,000 gross receipts level used by the City of Portland. In that case, net impact of the full set of reforms would be a reduction of approximately \$700 thousand in BIT revenue. However, this data is based on projections from prior years. As the business climate changes, so do BIT collections. That makes it difficult to accurately predict the fiscal impacts of these changes to the 2008 budget. In addition, where the tier levels on the progressive minimum are set and the details of their implementation will affect the net fiscal impact. In later years, the expectation is that these reforms will improve the business climate in our County enough to encourage new and existing business growth and therefore expanded tax revenues.

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

The Board of County Commissioners has authority to change the BIT system.

The resolution establishes a goal of enhancing economic development efforts around the County.

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

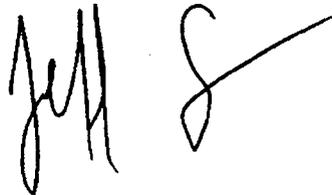
The BIT Reform Workgroup, comprised of members of the business community, local Chambers of Commerce, representatives of minority owned businesses and business groups, County employees, City of Portland employees, non-profit contractors with the County, and AFSME Local 88, drafted the recommendations being considered in this resolution. The Board, in creating the workgroup, was seeking community input and support. The Board gave the workgroup a specific objective of studying the City of Portland's recent reforms to the BLF and determining whether adopting similar changes for the BIT would make sense.

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**Required Signature**

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**Elected Official or  
Department/  
Agency Director:**



**Date:** 04/05/07

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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

Accepting the Recommendations of the Business Income Tax (BIT) Reform Workgroup to Ease the Burden on Small Business, Stabilize BIT Revenues, Improve Our Local Business Climate, and Directing the Chair to Implement BIT Reforms

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

- a. Small businesses are the lifeblood of our community and they represent the most significant source of local employment and of new local jobs.
- b. Over 94% of all firms in Multnomah County employ 50 people or less. Of that group of businesses, over 13,000 - more than 50% - employ fewer than five employees.
- c. Multnomah County should do what it can to help smaller, locally-owned businesses to thrive.
- d. Multnomah County currently imposes a Business Income Tax (BIT) of 1.45% of the net profits from the sale of goods or services within Multnomah County.
- e. Revenue from Multnomah County's BIT makes up a significant part of the County's budget. In fiscal year 2005-2006 the BIT generated \$50,980,000 out of the county's \$350,293,000 General Fund.
- f. Services vital to the health and well being of our entire community, and especially vital to the health and well being of the most vulnerable members of our community, are funded in part through the Business Income Tax. More than half of BIT Revenues fund Public Safety services which make it possible for businesses to operate in Multnomah County.
- g. County BIT revenues are volatile and in recent years have experienced revenue swings of 5% to 40% from one year to the next. The City of Portland's BLF revenues are more stable largely due to the fact that the BLF system includes a \$100 minimum tax payment.
- h. Tax collection, audit, and administration functions for the BIT and the BLF are handled jointly by the City of Portland's Revenue Bureau. Alignment of the two tax codes will be less confusing for small businesses and will foster administrative efficiencies within the two tax systems.

- i. On March 1, 2007, the Board of County Commissioners adopted Resolution 07-041 creating the Business Income Tax (BIT) Workgroup, comprised of members of the business community & other stakeholders.
- j. The BIT Workgroup was charged with studying Multnomah County's BIT and recommending reforms that would ease the burden on small business, stabilize BIT revenues, improve our local business climate, and align with the City of Portland's Business License Fee (BLF).
- k. The Workgroup received presentations from City of Portland staff on the recent reforms to the City's BLF system; heard from County employees about the County BIT system and County services provided through BIT revenue; reviewed literature about the impact of the County's BIT on our business climate and economic competitiveness; reviewed information regarding the impact of the current tax system on various types of businesses; and studied potential impacts on the County budget of various reform options.
- l. After significant analysis and discussion of these issues, the BIT Reform Workgroup concluded that the current structure of Multnomah County's BIT unfairly burdens certain types of businesses, weakens our County's economic competitiveness, and is unduly volatile as a source of revenue to the County.

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

1. The Board accepts the recommendations of the Business Income Tax (BIT) Reform Workgroup attached as Exhibit A.
2. The Chair is directed to take such actions necessary to align the County with the City of Portland's Business License Fee with respect to:
  - (a) Raising the Owner's Compensation Deduction from \$61,500 to \$80,000, in tax year 2008.
  - (b) Raising the Owner's Compensation Deduction to \$125,000 within 5 years.
  - (c) Raising the Gross Receipts Exemption from \$25,000 to \$50,000, in tax year 2008.
  - (d) Decreasing the volatility in County tax receipts, by instituting a \$100 minimum BIT payment beginning in tax year 2008.
3. The Board resolves to:
  - (a) Work to increase communication and to build trust between Multnomah County's government and the local business community.

- (b) Expand Multnomah County's economic development efforts; targeting areas not currently served or that are under-served by the Portland Development Commission (PDC).
  - (c) Work with the City of Portland in the coming year to develop a joint standard for making the minimum tax progressive and for determining how it would be applied. Progressive tiers for the minimum tax should be crafted in tandem with the City of Portland using the gross receipts and employee count data they started collecting this year.
  - (d) Use any additional revenue generated by the progressive minimum tax to help pay for expanded County economic development efforts, and for raising the Owner's Compensation Deduction from \$80,000 to \$125,000.
4. The Board extends its thanks and appreciation to the volunteer members of the BIT Reform Workgroup for their time and efforts in studying these reforms.

ADOPTED this 12th day of April, 2007.

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

---

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By \_\_\_\_\_  
Agnes Sowle, County Attorney

SUBMITTED BY:

Jeff Cogen, Commissioner, District 2  
Lisa Naito, Commissioner, District 3  
Lonnie Roberts, Commissioner, District 4  
Maria Rojo de Steffey, Commissioner, District 1  
Ted Wheeler, County Chair



## **Multnomah County Business Income Tax (BIT) Reform Workgroup Recommendations to the Board of County Commissioners**

On March 1, 2007, the Board of County Commissioners passed Resolution 07-041 creating the Business Income Tax Reform Workgroup (BIT Workgroup). The BIT Workgroup was comprised of representatives from business, labor and other stakeholders. The BIT Workgroup was charged with proposing changes to make the County's Business Income Tax more fair and equitable to local businesses while providing a more stable source of funding for Multnomah County. Specifically, the BIT Workgroup was asked to study the reforms recently adopted by the City of Portland to the City's Business License Fee and determine whether the County should adopt similar changes.

The BIT Workgroup received presentations from the City regarding the City's changes to its tax structure, and from County staff regarding the County's tax system and County services. The group also reviewed literature about the impact of the County's BIT on our business climate and economic competitiveness, and reviewed information regarding the impact of the current tax system on various types of businesses.

After this analysis the BIT Workgroup unanimously agreed that the current BIT system should be reformed. The BIT Workgroup concluded that the current tax structure in Multnomah County unfairly burdens certain types of businesses, weakens our County's economic competitiveness, and is unduly volatile as a source of revenue to the County. The BIT Workgroup recommends the following specific changes be adopted by the Board of County Commissioners:

- Expand Multnomah County's economic development efforts; targeting areas not currently served or that are under-served by the Portland Development Commission (PDC). Work to increase communication and to build trust between Multnomah County's government and the local business community.
- Closely align the County's BIT with the City of Portland's Business License Fee (BLF), and adopt a reform package similar to what the City recently adopted for the BLF.
- Align with the City's code changes by raising the Owner's Compensation Deduction from \$61,500 to \$80,000, in tax year 2008. Like the City, establish a firm goal of raising the Owner's Compensation Deduction to \$125,000 within 5 years.
- Align with the City's code changes by raising the Gross Receipts Exemption from \$25,000 to \$50,000, in tax year 2008.
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  - Although everyone agreed that the County should create a \$100 minimum BIT payment, we did not reach unanimity on the point at which the minimum would be applied. The majority (7 votes) supported creating a minimum tax beginning at \$50,000 in gross revenue, which is the level used by the City of Portland. A minority (3 votes) supported having the minimum tax begin at \$100,000 in gross revenue.

- Work with the City of Portland in the coming year to develop a joint standard for making the minimum tax progressive and to determine how it would be applied. Progressive tiers for the minimum tax should be developed in tandem with the City using the gross receipts and employee count data they started collecting this year.
- Use any additional revenue generated by the progressive minimum tax to help pay for expanded County economic development efforts and for raising the Owner's Compensation Deduction from \$80,000 to \$125,000.

We appreciate the Board of County Commissioners giving us the opportunity to provide our input on this important issue.

Signed:

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Roy Jay  
African American Chamber of Commerce

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Diane McKeel  
West Columbia Gorge Chamber of  
Commerce

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Lee Po Cha  
Director, Asian Family Center

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Carol Nielsen-Hood  
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Krista Larson  
Metropolitan Family Service

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Travis Stovall  
East Metro Economic Alliance

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Jeff Cogen, BIT Workgroup Chair  
Board of County Commissioners



**REPLY TO:**

P.O. Box 5488 • Portland, OR 97228-5488  
 P.O. Box 2979 • Clackamas, OR 97015-2979

(503) 244-5794  
(503) 293-2094 fax

blackchamber@usa.net  
blackchamber@mail.com

**April 9, 2007**

Dear Members of the Board of County Commissioners,

Thank you so much for convening the Business Income Tax Reform Workgroup. I know this has been a very difficult issue for our local governments to tackle, and I know that reforms to our local business tax systems have been delayed for quite a few years. I was really glad to see that the City of Portland, and now Multnomah County, are now addressing this decisively. The reforms the City made to their Business License Fee (BLF) were very well thought out, and I think they make a lot of sense for Multnomah County to adopt as well. We need to work to improve our business climate here. We have to show business owners that County government is serious about business prosperity and success.

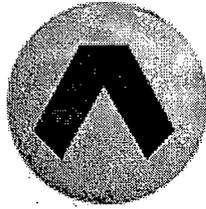
The workgroup that the Board convened to study the City of Portland's reforms was made up of a very broad and interesting group of people from our community. We studied a lot of information from both the City and County budget offices regarding the two tax systems. We also heard a lot about the reform process that the City engaged in, and about the package of reforms they adopted. Finally, we studied the impacts these reforms would have on businesses of various types and sizes, and what these reforms would mean for the County budget. When all was said and done, we came to unanimous agreement that the BIT needed to be better aligned with the City's Business License Fee (BLF). That is why we have all signed onto this set of recommended reforms.

Thank you again for getting business people like me involved in this process, and thank you also for considering this much needed and well designed package of tax reforms.

Sincerely,  
AFRICAN AMERICAN CHAMBER OF COMMERCE OF OREGON  
OREGON BUSINESS NETWORK

Roy Jay

Roy Jay  
President & Chief Executive Officer



**PORTLAND BUSINESS  
ALLIANCE**

*Leading the way*

**RESOLUTION IN SUPPORT OF COUNTY BUSINESS INCOME TAX WORKING GROUP  
RECOMMENDATION**

Whereas, the Portland Business Alliance, Portland's Chamber of Commerce, represents more than 1,300 firms in the greater Portland metropolitan area, and,

Whereas, the City of Portland Business License Fee and the Multnomah County Business Income Tax represent an additional cost of doing business for firms within the city and county, and,

Whereas, the City of Portland recently acted to reduce the burden on businesses of the City's Business License Fee by increasing the gross receipts exemption and the owner's compensation, and has committed to increasing the owner's compensation further, and,

Whereas, Multnomah County established a working group consisting of small businesses, social service advocates, chambers of commerce and union representatives to examine the county business income tax, and,

Whereas, the county working group reviewed an analysis by the city and the county revenue departments regarding the impacts of changing the county business income tax to match the changes made by the City of Portland in the business license fee, and,

Whereas, the working group requested that the county expand its economic development efforts, targeting areas not currently served or that are under-served by the Portland Development Commission and to increase communication and to build trust between Multnomah County's government and the local business community, and,

Whereas, the working group assessed the budget impacts to the county of the possible options for aligning the business income tax with the city business license fee, and,

Whereas, the working group recommended that the county increase the owner's compensation deduction from \$61,500 to \$80,000 in tax year 2008 and express its intent to raise the owner's compensation to \$125,000 within 5 years, and,

Whereas, the working group recommended that the county increase the gross receipts exemption from \$25,000 to \$50,000, in tax year 2008, and,

Whereas, the working group recommended that the county implement a \$100 minimum that would apply to businesses with gross revenue greater than \$50,000, and,

Whereas, the working group's proposed option to match the city business license fee and establish a county minimum tax best addresses the multiple objectives in adjusting the county business income tax,

Now, therefore, be it resolved, the Portland Business Alliance urges the Multnomah County Board of Commissioners to adopt the proposed reforms to the County business income tax and align the county tax with the City of Portland's business license fee structure, and,

Be it further resolved, the Portland Business Alliance urges Multnomah County Board of Commissioners to take steps to expand the county's economic development efforts, targeting areas not currently served or that are under-served by the Portland Development Commission.

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: 4-12-07

SUBJECT: MC B17

AGENDA NUMBER OR TOPIC: R-4

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

NAME: ROBERT BUTLER

ADDRESS: 827 SW 18

CITY/STATE/ZIP: PORTLAND OR

PHONE: DAYS: 503 222-4949 EVES: \_\_\_\_\_

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

SPECIFIC ISSUE: MC B17 - MLS STARTED REFORM

WRITTEN TESTIMONY: both

**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.

**EXAMPLE OF THE TAX PREJUDICE AGAINST SMALL EMPLOYERS**

ASSUME TWO PORTLAND COMPANIES EACH HAVE SAME \$25,000 NET INCOME ON THEIR STATE TAX RETURNS FOR TAX YEAR 2007

SUMMARY: RESULTANT TAX BRACKETS (Portland & Multnomah Cty. combined)			
	MULT/PORTL	OREGON COMPARISON	FEDERAL COMPARISON
LARGE EMPLOYER	3.65%	6.6%	15%
SMALL EMPLOYER	13.87% ##	6.6%	15%

<u>MULT/PORTL CALCULATION DETAILS:</u>	<u>LARGE EMPL.</u>	<u>SMALL EMPL.</u>
NUMBER OWNERS COMPENSATED WITH OVER 5% OF THE COMPANY OWNERSHIP	-0-	-1-
OWNERS COMPENSATION	\$200,000	\$150,000
LID ON EACH OWNERS COMPENSATION (effects owners over 5% ownership)	(N/A)	\$80,000 #
PHANTOM PROFIT (owners compensation over \$60,000 added back)	(0)	\$70,000
NET INCOME PER STATE RETURN	<u>\$25,000</u>	<u>\$25,000</u>
TAXABLE INCOME (sub total phantom + ni)	\$25,000	\$ 95,000
TAX AT 3.65% COMBINED RATE (Portland 2.20% Multnomah Cty 1.45%)	\$912	\$3,467
SCHOOL SURCHARGE (0.14%)	<u>\$ 35</u> \$ 947	<u>\$157</u> \$4,245
EFFECTIVE TAX BRACKET (\$25,000 NOI)	3.65%	13.87% ##

*Estm. adjusted base rate without phantom tax income to remain revenue neutral is both large and small had same rate 4.25% Vs 3.65% (i.e. no prejudice) per Mult. Cty. Fin. Dept. (Just Mult. 1.69% Vs 1.45%) # City Council passes ordinance Jan. 2007, that the "lid" be \$80,000 in year 2008. ## If County does not negate by R4*



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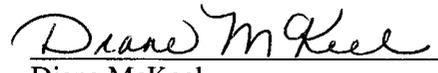
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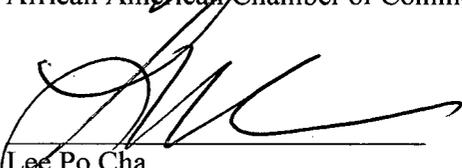
Signed:



Roy Jay  
African American Chamber of Commerce



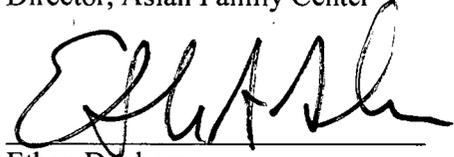
Diane McKeel  
West Columbia Gorge Chamber of Commerce



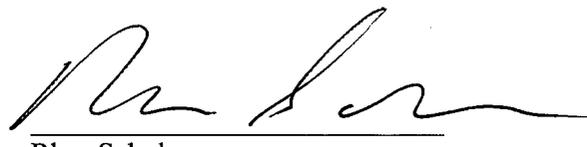
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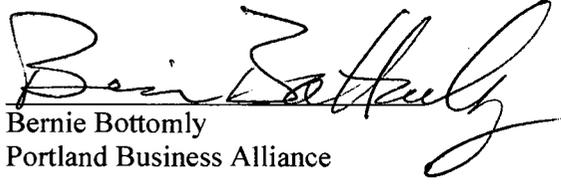
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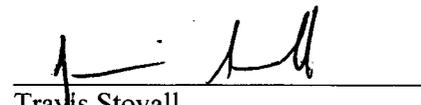
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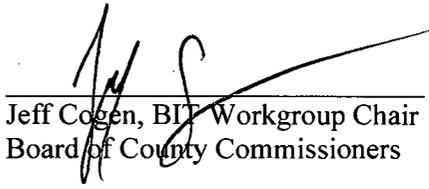
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Travis Stovall  
East Metro Economic Alliance



Jeff Cogen, BIT Workgroup Chair  
Board of County Commissioners

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 07-054**

Accepting the Recommendations of the Business Income Tax (BIT) Reform Workgroup to Ease the Burden on Small Business, Stabilize BIT Revenues, Improve Our Local Business Climate, and Directing the Chair to Implement BIT Reforms

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

- a. Small businesses are the lifeblood of our community and they represent the most significant source of local employment and of new local jobs.
- b. Over 94% of all firms in Multnomah County employ 50 people or less. Of that group of businesses, over 13,000 - more than 50% - employ fewer than five employees.
- c. Multnomah County should do what it can to help smaller, locally-owned businesses to thrive.
- d. Multnomah County currently imposes a Business Income Tax (BIT) of 1.45% of the net profits from the sale of goods or services within Multnomah County.
- e. Revenue from Multnomah County's BIT makes up a significant part of the County's budget. In fiscal year 2005-2006 the BIT generated \$50,980,000 out of the county's \$350,293,000 General Fund.
- f. Services vital to the health and well being of our entire community, and especially vital to the health and well being of the most vulnerable members of our community, are funded in part through the Business Income Tax. More than half of BIT Revenues fund Public Safety services which make it possible for businesses to operate in Multnomah County.
- g. County BIT revenues are volatile and in recent years have experienced revenue swings of 5% to 40% from one year to the next. The City of Portland's BLF revenues are more stable largely due to the fact that the BLF system includes a \$100 minimum tax payment.
- h. Tax collection, audit, and administration functions for the BIT and the BLF are handled jointly by the City of Portland's Revenue Bureau. Alignment of the two tax codes will be less confusing for small businesses and will foster administrative efficiencies within the two tax systems.

- i. On March 1, 2007, the Board of County Commissioners adopted Resolution 07-041 creating the Business Income Tax (BIT) Workgroup, comprised of members of the business community & other stakeholders.
- j. The BIT Workgroup was charged with studying Multnomah County's BIT and recommending reforms that would ease the burden on small business, stabilize BIT revenues, improve our local business climate, and align with the City of Portland's Business License Fee (BLF).
- k. The Workgroup received presentations from City of Portland staff on the recent reforms to the City's BLF system; heard from County employees about the County BIT system and County services provided through BIT revenue; reviewed literature about the impact of the County's BIT on our business climate and economic competitiveness; reviewed information regarding the impact of the current tax system on various types of businesses; and studied potential impacts on the County budget of various reform options.
- l. After significant analysis and discussion of these issues, the BIT Reform Workgroup concluded that the current structure of Multnomah County's BIT unfairly burdens certain types of businesses, weakens our County's economic competitiveness, and is unduly volatile as a source of revenue to the County.

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

1. The Board accepts the recommendations of the Business Income Tax (BIT) Reform Workgroup attached as Exhibit A.
2. The Chair is directed to take such actions necessary to align the County with the City of Portland's Business License Fee with respect to:
  - (a) Raising the Owner's Compensation Deduction from \$61,500 to \$80,000, in tax year 2008.
  - (b) Raising the Owner's Compensation Deduction to \$125,000 within 5 years.
  - (c) Raising the Gross Receipts Exemption from \$25,000 to \$50,000, in tax year 2008.
  - (d) Decreasing the volatility in County tax receipts, by instituting a \$100 minimum BIT payment beginning in tax year 2008.
3. The Board resolves to:
  - (a) Work to increase communication and to build trust between Multnomah County's government and the local business community.

- (b) Expand Multnomah County's economic development efforts; targeting areas not currently served or that are under-served by the Portland Development Commission (PDC).
  - (c) Work with the City of Portland in the coming year to develop a joint standard for making the minimum tax progressive and for determining how it would be applied. Progressive tiers for the minimum tax should be crafted in tandem with the City of Portland using the gross receipts and employee count data they started collecting this year.
  - (d) Use any additional revenue generated by the progressive minimum tax to help pay for expanded County economic development efforts, and for raising the Owner's Compensation Deduction from \$80,000 to \$125,000.
4. The Board extends its thanks and appreciation to the volunteer members of the BIT Reform Workgroup for their time and efforts in studying these reforms.

ADOPTED this 12th day of April, 2007.

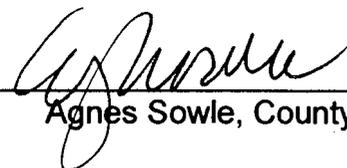


BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
\_\_\_\_\_  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
\_\_\_\_\_  
Agnes Sowle, County Attorney

SUBMITTED BY:

Jeff Cogen, Commissioner, District 2  
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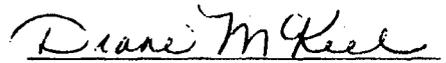
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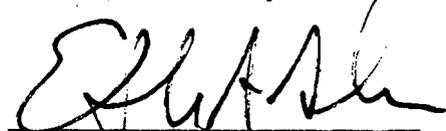
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Roy Jay  
African American Chamber of Commerce

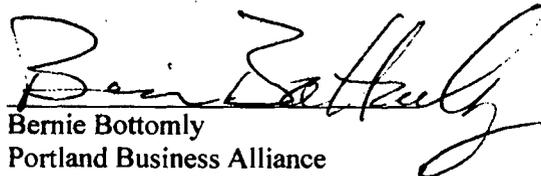
  
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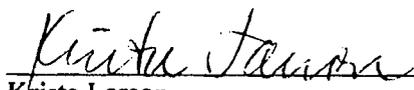
  
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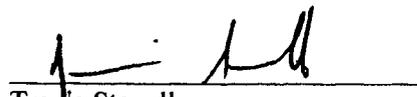
  
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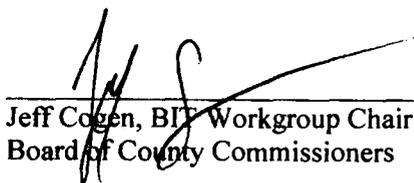
  
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East Metro Economic Alliance

  
Jeff Cogen, BIT Workgroup Chair  
Board of County Commissioners



# MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

**Board Clerk Use Only**

Meeting Date: 04/12/07  
 Agenda Item #: R-5  
 Est. Start Time: 10:30 AM  
 Date Submitted: 04/05/07

**RESOLUTION Approving a Memorandum of Understanding with the Portland Development Commission and Directing Facilities and Property Management to Proceed with an Intergovernmental Agreement for Release of Urban Renewal Funding to Reroute the Hawthorne Bridge West Bound Off-Ramp**

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

**Date Requested:** April 12, 2007      **Time Requested:** 10 minutes  
**Department:** Non-Departmental      **Division:** District 1, 3  
**Contact(s):** Pam Krecklow  
**Phone:** 503 988-4382      **Ext.** 84382      **I/O Address:** 274  
**Presenter(s):** Commissioner Rojo, Commission Naito, FPM Director Doug Butler, Pam Krecklow

## General Information

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

Approval of a resolution to enter into a Memorandum of Understanding (MOU) with the Portland Development Commission (PDC) for receipt of \$9 million in Urban Renewal Funding to be used to reroute the west bound off-ramp of the Hawthorne Bridge.

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

In December 2006 the Board declared the North Hawthorne Bridgehead property as the preferred site for a new courthouse in downtown Portland. In order to fully develop the selected site it is necessary to reroute the existing west bound Hawthorne Bridge off ramp that dissects the block.

The anticipated funding for the ramp relocation project is PDC funds agreed to when the Board supported a four year extension of the Downtown Waterfront Urban Renewal Area in return for PDC's assistance with siting a new Courthouse.

The MOU captures the County/PDC discussions for the transfer of \$9 million in tax

increment funding and structures a future IGA which will be the legal executable document for the actual financial transaction.

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

There are no fiscal impacts in regards to this resolution. The resulting IGA will provide the County with \$9 million in Tax Increment Funding from the Downtown Waterfront Urban Renewal Districts last bond sale in the Fall of 2007. That funding will then be used to offset the estimated \$10.7 million in expenses required to move the off-ramp on the Hawthorne Bridgehead site.

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

None

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

The Courthouse siting issues has been debated for over 30 years with the most recent recommendation coming from the 2003 Courthouse Blue Ribbon Steering Committee. This resolution is one step in that overall courthouse recommendation and builds off of Resolution #06-203 in which the Board directed facilities to proceed with negotiations for an IGA with the Portland Development Commission. The Board has passed 5 previous resolutions on the siting issue at public meetings and the siting question has been debated in several formats including articles in the Oregonian and Portland Tribune. The \$9 million has been included in PDC's budget since 2005 and PDC's budget is discussed, analyzed, and approved by the City Council at numerous public and committee meetings.

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**Required Signatures**

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Department/  
Agency Director:

*Asia Nantz*  
*Mania Pajo de Steffen*

Date: 04/05/07

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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

Approving a Memorandum of Understanding with the Portland Development Commission and Directing Facilities and Property Management to Proceed with an Intergovernmental Agreement for Release of Urban Renewal Funding to Reroute the Hawthorne Bridge West Bound Off-Ramp

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

- a. Resolution 06-203 directed Facilities and Property Management (FPM) to proceed with negotiations for an Intergovernmental Agreement (IGA) with the Portland Development Commission (PDC) to secure \$9 million in Downtown Waterfront Urban Renewal Area funds for the partial financing of the relocation of the existing Hawthorne Bridge west-bound off-ramp.
- b. County and PDC staff negotiations have produced a Memorandum of Understanding (MOU) that creates a framework for the IGA. The MOU step was added to facilitate an open discussion and clear understanding between the parties prior to proceeding with executable agreements.
- c. The MOU outlines the intent of the IGA and includes:
  - 1) County securing \$9 million in Downtown Urban Renewal Funding from the current Plan's last bond sale in the fall of 2007.
  - 2) County commitment to provide good faith efforts towards the completion of the Courthouse.
  - 3) Definition of a working partnership between PDC and the County to strive for full development potential for:
    - Morrison Bridgehead
    - South Hawthorne Bridgehead Properties
    - Central Eastside's Hooper Detox Center Development
    - Bridge Shop site
  - 4) County and PDC to discuss a potential limited urban renewal area to benefit the County Courthouse Project.
- d. PDC's Executive Director has reviewed the MOU with the PDC Commission and has the authority to execute the MOU on behalf of the PDC.

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

1. The attached Memorandum of Understanding with the Portland Development Commission is approved and the County Chair is directed to sign the agreement.
2. FPM is directed to proceed with the Intergovernmental Agreement under the terms laid out in the MOU.

ADOPTED this 12th day of April, 2007.

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

---

Ted Wheeler, Chair

REVIEWED:

**AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON**

By \_\_\_\_\_  
Agnes Sowle, County Attorney

Submitted by:

Lisa Naito, Commissioner District 3  
Maria Rojo de Steffey, Commissioner District 1

**PDC - MULTNOMAH COUNTY**  
**Courthouse Memorandum of Understanding**

April 2, 2007

PDC appreciates the County's support with both the Central City Urban Renewal Area Committee's recommendation to extend the Downtown Waterfront (DTWF) Urban Renewal Area (URA) in 2004 and support for the extension of the Central Eastside Urban Renewal Area in 2006.

PDC will assist the County in preparing the North Hawthorne Bridgehead site (bounded by Naito Parkway, 1<sup>st</sup> Avenue, Madison and Main) for a new County courthouse. PDC's support for the project will consist of providing \$9 million in PDC funds to assist in the relocation of the portion of the Hawthorne Bridge ramp which is located in the DTWF URA.

While PDC fully recognizes the importance of developing a new courthouse facility for the community, it is a fact that the County wishes to spend the TIF (tax increment financing) allocation on site preparation prior to appropriate zoning being in place or a viable financing plan having been formulated for construction of the new courthouse.

**Funding Conditions:**

1. The funds will be available no earlier than the last bond sale for the Downtown Waterfront Urban Renewal Area, expected to occur in Fall, 2007.
2. The County will need to seek PDC approval if the funds are used for any purpose other than the bridge ramp relocation to prepare a site for the new courthouse.
3. The County may use the PDC funds to facilitate a sale, swap or transfer of the North Hawthorne Bridgehead site in order to acquire another site for the courthouse. The County's intent in this type of transaction would be to end up with a Courthouse site and to see the North Hawthorne Bridgehead site redeveloped and placed onto the tax rolls.
4. The County shall work with the Bureau of Planning, Portland Parks & Recreation, Portland Department of Transportation and any other relevant agencies to gain the necessary entitlements and approvals to move ahead with the ramp relocation and courthouse construction projects. PDC's role is primarily as a funder.
5. The County shall provide a good faith effort toward:
  - a. Obtaining the necessary entitlements to construct the Courthouse within 5 years of the date of this agreement
  - b. Beginning relocation of the ramp within 5 years
  - c. Obtain the required funding and begin construction on the new Courthouse at the earliest possible date.
6. If the County sells this site and the proceeds are not reinvested directly in a site or development of the new courthouse, then PDC has the option to require the County to repay PDC its initial investment plus accrued interest or the net proceeds from the sale, whichever is less.

The County and PDC agree to the following items:

1. PDC and the County agree that the timely redevelopment of the Morrison Bridgehead properties – which is made up of Block 1,2,16 and 39 – would both provide revenue for the new courthouse from the sales proceeds and be of significant benefit to the City.
  - i. PDC and the County shall jointly prepare criteria for the disposition of the Morrison Bridgehead properties.
  - ii. PDC shall take the lead, with the active cooperation of the County, to solicit development proposals and negotiate a development agreement which includes the sale of the property.
  - iii. PDC and the County will obtain an appraisal of the property through a mutually acceptable appraisal process. The County agrees it will accept appraised value for the sale of the property but will not be bound to consider offers which would unreasonably delay the sale closing.
  - iv. Both the County and PDC shall give a preference toward redevelopment proposals that make maximum use of the entire site and which propose quality office, retail, or residential, or a mixture of uses, and which enhances the connectivity between downtown's retail core and the waterfront and which create tax revenue. Preference will also be considered for aggressive development timelines.
  - v. The County and PDC both acknowledge that there are no TIF funds currently available for the redevelopment of these properties.
  - vi. The County and PDC agree to make the Morrison Bridgehead properties available for sale before the end of 2007.
  - vii. The County must approve any final development agreement and sale of the property.
  - viii. If, no appropriate redevelopment proposals are received, or an appraised value price for the land cannot be achieved, or either PDC or the County are not proceeding in a timely fashion, then the County and PDC meet and renegotiate this agreement.
2. If the County declares the County-owned property on the block immediately south of the proposed courthouse site (South Hawthorne Bridgehead) surplus, it shall, at PDC's option, negotiate in good faith with PDC to develop a partnership for the redevelopment of that site as well.
3. County and PDC will partner on the Hooper Detox Center project in the Central Eastside. PDC is committed to invest \$2 million in the redevelopment of the facility at the existing or a new location. The County agrees to actively support the redevelopment including consideration of the potential for co-locating health or other appropriate services in the project.
4. PDC and the County agree to co-operate in planning discussions regarding the Bridge Shop site under the Hawthorne Bridge. If planning discussions locate potential funding for a cost effective relocation of County functions and site redevelopment potential (probably for additional parking) is deemed appropriate, the County will consult with PDC regarding a beneficial sale of the Bridge Shop property.
5. The County and PDC agree to prepare and execute an Inter-Governmental Agreement reflecting these terms as soon as possible after this MOU is entered into.

6. PDC and the County also agree to discuss a limited urban renewal area to leverage the new development in the vicinity of the Hawthorne Bridgehead property for the benefit of the County Courthouse project.

Multnomah County:

Portland Development Commission:

\_\_\_\_\_  
Ted Wheeler, Chair

\_\_\_\_\_  
Bruce Warner, Executive Director

Dated:

Dated:

\_\_\_\_\_

\_\_\_\_\_

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 07-055**

Approving a Memorandum of Understanding with the Portland Development Commission and Directing Facilities and Property Management to Proceed with an Intergovernmental Agreement for Release of Urban Renewal Funding to Reroute the Hawthorne Bridge West Bound Off-Ramp

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

- a. Resolution 06-203 directed Facilities and Property Management (FPM) to proceed with negotiations for an Intergovernmental Agreement (IGA) with the Portland Development Commission (PDC) to secure \$9 million in Downtown Waterfront Urban Renewal Area funds for the partial financing of the relocation of the existing Hawthorne Bridge west-bound off-ramp.
- b. County and PDC staff negotiations have produced a Memorandum of Understanding (MOU) that creates a framework for the IGA. The MOU step was added to facilitate an open discussion and clear understanding between the parties prior to proceeding with executable agreements.
- c. The MOU outlines the intent of the IGA and includes:
  - 1) County securing \$9 million in Downtown Urban Renewal Funding from the current Plan's last bond sale in the fall of 2007.
  - 2) County commitment to provide good faith efforts towards the completion of the Courthouse.
  - 3) Definition of a working partnership between PDC and the County to strive for full development potential for:
    - Morrison Bridgehead
    - South Hawthorne Bridgehead Properties
    - Central Eastside's Hooper Detox Center Development
    - Bridge Shop site
  - 4) County and PDC to discuss a potential limited urban renewal area to benefit the County Courthouse Project.
- d. PDC's Executive Director has reviewed the MOU with the PDC Commission and has the authority to execute the MOU on behalf of the PDC.

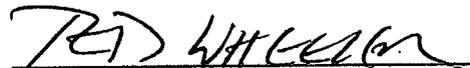
**The Multnomah County Board of Commissioners Resolves:**

1. The attached Memorandum of Understanding with the Portland Development Commission is approved and the County Chair is directed to sign the agreement.
2. FPM is directed to proceed with the Intergovernmental Agreement under the terms laid out in the MOU.

ADOPTED this 12th day of April, 2007.

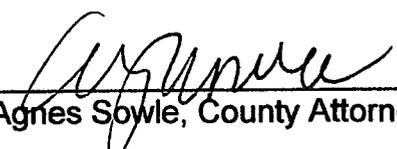


BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
\_\_\_\_\_  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
\_\_\_\_\_  
Agnes Sowle, County Attorney

Submitted by:

Lisa Naito, Commissioner District 3  
Maria Rojo de Steffey, Commissioner District 1

**PDC - MULTNOMAH COUNTY**  
**Courthouse Memorandum of Understanding**

April 2, 2007

PDC appreciates the County's support with both the Central City Urban Renewal Area Committee's recommendation to extend the Downtown Waterfront (DTWF) Urban Renewal Area (URA) in 2004 and support for the extension of the Central Eastside Urban Renewal Area in 2006.

PDC will assist the County in preparing the North Hawthorne Bridgehead site (bounded by Naito Parkway, 1<sup>st</sup> Avenue, Madison and Main) for a new County courthouse. PDC's support for the project will consist of providing \$9 million in PDC funds to assist in the relocation of the portion of the Hawthorne Bridge ramp which is located in the DTWF URA.

While PDC fully recognizes the importance of developing a new courthouse facility for the community, it is a fact that the County wishes to spend the TIF (tax increment financing) allocation on site preparation prior to appropriate zoning being in place or a viable financing plan having been formulated for construction of the new courthouse.

**Funding Conditions:**

1. The funds will be available no earlier than the last bond sale for the Downtown Waterfront Urban Renewal Area, expected to occur in Fall, 2007.
2. The County will need to seek PDC approval if the funds are used for any purpose other than the bridge ramp relocation to prepare a site for the new courthouse.
3. The County may use the PDC funds to facilitate a sale, swap or transfer of the North Hawthorne Bridgehead site in order to acquire another site for the courthouse. The County's intent in this type of transaction would be to end up with a Courthouse site and to see the North Hawthorne Bridgehead site redeveloped and placed onto the tax rolls.
4. The County shall work with the Bureau of Planning, Portland Parks & Recreation, Portland Department of Transportation and any other relevant agencies to gain the necessary entitlements and approvals to move ahead with the ramp relocation and courthouse construction projects. PDC's role is primarily as a funder.
5. The County shall provide a good faith effort toward:
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  - b. Beginning relocation of the ramp within 5 years
  - c. Obtain the required funding and begin construction on the new Courthouse at the earliest possible date.
6. If the County sells this site and the proceeds are not reinvested directly in a site or development of the new courthouse, then PDC has the option to require the County to repay PDC its initial investment plus accrued interest or the net proceeds from the sale, whichever is less.

The County and PDC agree to the following items:

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  - ii. PDC shall take the lead, with the active cooperation of the County, to solicit development proposals and negotiate a development agreement which includes the sale of the property.
  - iii. PDC and the County will obtain an appraisal of the property through a mutually acceptable appraisal process. The County agrees it will accept appraised value for the sale of the property but will not be bound to consider offers which would unreasonably delay the sale closing.
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  - v. The County and PDC both acknowledge that there are no TIF funds currently available for the redevelopment of these properties.
  - vi. The County and PDC agree to make the Morrison Bridgehead properties available for sale before the end of 2007.
  - vii. The County must approve any final development agreement and sale of the property.
  - viii. If, no appropriate redevelopment proposals are received, or an appraised value price for the land cannot be achieved, or either PDC or the County are not proceeding in a timely fashion, then the County and PDC meet and renegotiate this agreement.
2. If the County declares the County-owned property on the block immediately south of the proposed courthouse site (South Hawthorne Bridgehead) surplus, it shall, at PDC's option, negotiate in good faith with PDC to develop a partnership for the redevelopment of that site as well.
3. County and PDC will partner on the Hooper Detox Center project in the Central Eastside. PDC is committed to invest \$2 million in the redevelopment of the facility at the existing or a new location. The County agrees to actively support the redevelopment including consideration of the potential for co-locating health or other appropriate services in the project.
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5. The County and PDC agree to prepare and execute an Inter-Governmental Agreement reflecting these terms as soon as possible after this MOU is entered into.

6. PDC and the County also agree to discuss a limited urban renewal area to leverage the new development in the vicinity of the Hawthorne Bridgehead property for the benefit of the County Courthouse project.

Multnomah County, Oregon:

  
Ted Wheeler, Chair

Dated:

April 12, 2007

Portland Development Commission:

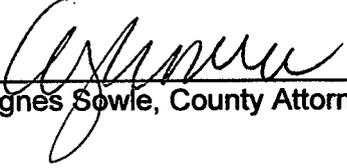
\_\_\_\_\_  
Bruce Warner, Executive Director

Dated:

\_\_\_\_\_

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
\_\_\_\_\_  
Agnes Sowle, County Attorney

**BOGSTAD Deborah L**

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**From:** SOWLE Agnes  
**Sent:** Wednesday, April 18, 2007 11:11 AM  
**To:** BOGSTAD Deborah L  
**Cc:** THOMAS John S; KRECKLOW Pam  
**Subject:** RE: Portland Development Commission Request to add County and PDC agreement No. 7 after April 12th Board Adoption of Resolution and MOU

The new language does not change the legal effect of the MOU, nor does it change the intent of the document. The resolution contemplates that the MOU shall be the basis of negotiation for the IGA which will be brought back to the Board. We should have said that the Chair is directed to sign an MOU substantially in the form as the one attached in order to cover this type of problem. But because we didn't, go ahead and present to Chair Wheeler with the changes.

*Agnes Sowle*  
*Multnomah County Attorney*  
*501 SE Hawthorne Blvd., Ste. 500*  
*Portland, OR 97214*  
*(503)988-3138*

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**From:** BOGSTAD Deborah L  
**Sent:** Wednesday, April 18, 2007 10:13 AM  
**To:** SOWLE Agnes  
**Cc:** THOMAS John S  
**Subject:** Portland Development Commission Request to add County and PDC agreement No. 7 after April 12th Board Adoption of Resolution and MOU  
**Importance:** High

Agnes, last Thursday the Board adopted the attached Resolution 07-055 (with MOU included) and it was resolved that:

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

1. The attached Memorandum of Understanding with the Portland Development Commission is approved and the County Chair is directed to sign the agreement.
2. FPM is directed to proceed with the Intergovernmental Agreement under the terms laid out in the MOU.

From what I understand from Pam Krecklow, the Portland Development Commission has demanded that the MOU have additional language added and I've been asked to get Chair Wheeler's signature on the attached revision. The following statement is what PDC wants added as number 7 on page 3 of the MOU. I don't feel comfortable providing PDC with a revised MOU that was not part of the original Board packet or the Resolution as adopted by the Board. What are your suggestions?

**7. This MOU is not a binding legal document and the parties hereto do not intend this MOU**

4/18/2007

**to create legally enforceable rights and obligations. Rather, this MOU sets forth the current understandings of the parties that form the basis for negotiation of an Inter-Governmental Agreement, pursuant to Section 5 above.**

Thank you.

**Deb Bogstad, Board Clerk  
Multnomah County Commissioners  
501 SE Hawthorne Boulevard, Suite 600  
Portland, Oregon 97214-3587  
(503) 988-3277 phone  
(503) 988-3013 fax  
deborah.l.bogstad@co.multnomah.or.us  
<http://www.co.multnomah.or.us/cc/index.shtml>**

**PDC - MULTNOMAH COUNTY**  
**Courthouse Memorandum of Understanding**

April 2, 2007

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7. This MOU is not a binding legal document and the parties hereto do not intend this MOU to create legally enforceable rights and obligations. Rather, this MOU sets forth the current understandings of the parties that form the basis for negotiation of an Inter-Governmental Agreement, pursuant to Section 5 above.

Multnomah County, Oregon:

  
\_\_\_\_\_  
Ted Wheeler, Chair

Portland Development Commission:

\_\_\_\_\_  
Bruce Warner, Executive Director

Dated:

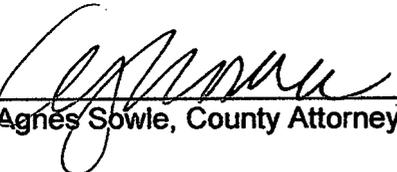
April 18, 2007

Dated:

\_\_\_\_\_

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
\_\_\_\_\_  
Agnes Sowle, County Attorney



**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST (short form)**

**Board Clerk Use Only**

Meeting Date: 04/12/07  
 Agenda Item #: R-6  
 Est. Start Time: 10:35 AM  
 Date Submitted: 04/05/07

**RESOLUTION Approving a Purchase Option for Real Property from**  
**Agenda BRCP/Unico Lincoln, LLC, ("Lincoln Building"), Located at 421 SW Oak**  
**Title: Street, Portland, Oregon**

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

**Requested Meeting Date:** April 12, 2007      **Amount of Time Needed:** 10 minutes  
**Department:** Non-Departmental      **Division:** Chair's Office  
**Contact(s):** Doug Butler or Mike Sublett @ 84149  
**Phone:** 503.988.6294      **Ext.** 86924      **I/O Address:** FPM/274  
**Presenter(s):** Doug Butler, Facilities and Property Management Division

**General Information**

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

Approve a Purchase Option For Real Property From BRCP/Unico Lincoln, LLC, ("Lincoln Building"), Located At 421 SW Oak Street, Portland, Oregon.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

By Resolution 05-018, Multnomah County leases approximately 100,000 square feet of office space in the Lincoln Building, located at 421 SW Sixth Avenue, Portland, Oregon under a lease commencing June 30, 2005, and expiring on April 30, 2016. Programs of the Department of County Human Services ("DCHS") and Health Department ("Health") Administration are the primary tenants.

The Lincoln Building is 255,000 square feet, occupying a full block in downtown Portland. It is located between Fourth and Fifth Avenues directly on the new Transit Mall. Multnomah County owns two additional properties one block south of the Lincoln Building: The Gladys McCoy ("McCoy Building") is approximately 98,000 useable square feet, located at 426 SW Stark Street,

housing Health Department programs, including the Westside Clinic, the Emergency Operations Center, the STD, TB and other clinics. The Mead Building is approximately 76,000 square feet, located at 421 SW 5th Avenue, predominantly housing the Department of Community Justice ("DCJ"), with a DCHS program for DUII. In November 2004, Multnomah County adopted a Consolidation and Disposition Strategy for Multnomah County Facilities (Resolution 04-168). In August 2005, Multnomah County adopted a Strategic Facilities Plan for Multnomah County Facilities (Resolution 05-148). Both the McCoy and Mead Buildings were identified in these documents as functionally deficient and possible candidates for replacement. There is significant deferred maintenance in both buildings, including a substantial seismic upgrade liability. The small floor plates relative to the Lincoln Building lead to building inefficiencies. This is most pronounced in the McCoy in which modern clinic operation is conducted vertically, rather than the more efficient horizontal layout.

Over the past fifteen months, Facilities and Property Management Division ("Facilities") has worked with the Departments to conduct an intensive and in-depth analysis of program space needs for the McCoy and Mead Buildings. These programs are unique. The Health Programs include significant clinic use which is very expensive to build-out. This tends to create a bias toward ownership rather than leasing. The DCJ programs have a fairly standard build-out, except for some additional security requirements. The issue with DCJ is that landlords typically refrain from renting for that use. In January 2006, Facilities issued a Request for Information (RFI) for a possible Mead replacement and there were no serious responses. Thus, the unique nature of programs in these buildings, along with proximity and space availability in the Lincoln Building, indicates a consolidation of programs into an owned Lincoln Building could have advantages in long-term operating costs, program flexibility, and client and patient access. In addition, the Aging and Disabilities Services West Office, operates in 8,357 square feet of leased space at 1111 SW 10th Avenue, which expires December 31, 2007. This program is also under consideration for consolidation into the Lincoln Building. Initial space planning and test fits indicate all programs could be accommodated in the Lincoln Building.

After an intensive public and staff outreach process conducted by the Chair's Office, District 1 Commissioner's Office, Public Affairs Office, the affected Departments, and Facilities, there is a high degree of community and stakeholder support for a potential consolidation into the Lincoln Building and a resulting disposition of the McCoy and Mead Buildings. The Downtown Service Consolidation Public Involvement Summary report is attached. Facilities, along with DCHS, DCJ, and Health, have begun due diligence, detailed space planning, financial sensitivity analysis, and operational and programmatic development for a possible consolidation. Initial findings support further study on a possible acquisition and relocation.

Facilities and County broker representation have negotiated with the Lincoln Building owners, BRCP/Unico Lincoln, LLC, on a possible transaction, lease or sale, over the past year. Facilities has drafted the attached Purchase Offer Letter, dated April 3, 2007, addressed to the Lincoln Building owners, as the best and final offer from the County on a purchase of the Lincoln Building, and the basis for a binding Purchase and Sale Option Agreement. The offer includes the purchase price of \$39,950,000, which is \$650,000 less than the Seller's last net effective offer. (The 2006 assessed market value is \$38,800,000.) As such, it may be rejected by the Seller, who has indicated that specific Board approval is required as a part of ongoing negotiations. The offer also includes real estate fees in the amount of 1.5% of the Purchase Price for County representation, which would also include certain project management services under an existing County contract. If the terms of the Purchase Offer Letter are approved by the Board and accepted by the Owners, Facilities proposes to continue due diligence on the purchase of the Lincoln Building and to report back not later than June 1, 2007, with a report on the financial, operational, and structural conditions associated with a

purchase of the Lincoln Building and a recommendation on the binding exercise of the purchase option. Further, Facilities will report back on the possible disposition of the McCoy and Mead Buildings. After receipt of the report and the recommendation, the Board would determine whether to proceed with the purchase of the Lincoln Building.

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

The Resolution Purchase Offer Letter terms do not obligate the County. There is a \$750,000 Earnest Money deposit that is fully refundable if the County chooses not to proceed past due diligence. Additional due diligence would not exceed \$50,000, funded through existing disposition sources; no additional funds are requested. If the recommendation to proceed is made, Facilities will provide a full fiscal impact report.

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

n/a

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

The public involvement process began the week of February, 12, 2007. A team was assembled to create and implement a public involvement plan. It was an intensive and extensive process detailed in the attached "Downtown Service Consolidation Public Involvement Summary" report. Extensive outreach was made to staff stakeholders, as well. Chair Wheeler hosted two brown bag lunches with affected staff, Facilities hosted two additional brown bags in the Lincoln Building and extensive discussion has been encouraged among the affected departments.

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**Required Signature**

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Elected Official or  
Department/  
Agency Director:



Date: 04/05/07



**Downtown Service Consolidation  
Public Involvement Summary**

The county is considering a 76,000 square foot lease offer in the Lincoln Building (421 SW Oak St.) for the McCoy Building's Health Department, including the Westside Health Center and associated uses. The Lincoln Building currently houses programs of the Department of County Human Services and some administrative offices of the Health Department in 100,000 square feet. This lease agreement would also give the county a purchase option for the entire Lincoln Building. If the county decided to exercise that option and to purchase the building, it would also allow the Mead building occupants to move and both the Mead and McCoy Buildings to be sold.

The public involvement process began the week of February, 12, 2007. A team was assembled to create and implement a public involvement plan and included representatives from:

- Chair's Office
- Commissioner Rojo de Steffey's Office
- Multnomah County Department of Community Justice
- Multnomah County Facilities & Property Management
- Multnomah County Health Department
- Multnomah County Department of Human Services
- Multnomah County Public Affairs Office

Strategies for public outreach included:

- one-to-one discussions with community and business leaders
- contact with community groups and surrounding businesses
- dissemination of flyers
- information posted on the county website
- public open house
- media release
- comments accepted via email, fax, telephone or through written comment forms
- meetings and tours of the Lincoln Building conducted with union representatives and key department staff
- two brown bag Q & A sessions for employees with the county Chair

Contact was made with the following:

- Citizens Crime Commission
- Downtown Neighborhood Association
- Housing Authority of Portland
- Local Public Safety Coordinating Council
- Mayor Potter and Portland City Commissioners
- Multnomah County District Attorney Mike Schrunk
- Multnomah County Sheriff's Office
- Old Town/Chinatown Neighborhood Association
- Portland Business Alliance

- Portland Development Commission
- Portland Office of Neighborhood Involvement Crime Prevention
- Portland Police Central Precinct Commander Reese
- Portland Police Chief Sizer
- Public Safety Action Council
- Representatives of downtown real estate and development concerns
- Surrounding businesses and property owners
- TriMet and TriMet Police
- Union leadership: Local 88, FOPPO, and ONA

### **Summary of Community Response**

Community leaders and other stakeholders responded with statements of support and generally expressed no concerns about the project. One nearby business voiced concern stemming from their previous proximity to a liquor store and the resulting “people hanging around.” A community group raised the issue of providing a smoking area to keep the sidewalks more passable. Another business hoped that the relocation of Community Justice would yield more security on the street. Questions were raised about the funding for this project, given other county priorities such as mental health services, Wapato and the downtown Courthouse.

### **Attachments**

- A. Fact Sheet
- B. Media Release
- C. Comment Form



**MULTNOMAH  
COUNTY**

## **Proposed Lincoln Building Purchase McCoy and Mead Buildings Relocation**

Multnomah County needs to replace the McCoy (426 SW Stark St.) and Mead (421 SW Fifth Ave.) Buildings in downtown Portland due to high maintenance and operating costs, inefficient space and the cost of deferred maintenance.

The county is currently considering a 76,000 square feet lease offer with owners of the Lincoln Building (421 SW Oak St.) for the McCoy Building's Health Department, including the Westside Health Center and associated uses. The Lincoln Building currently houses programs of the Department of County Human Services and some administrative offices of the Health Department in 100,000 square feet.

The county is also considering a purchase option for the Lincoln Building, allowing Mead building occupants to move and both the Mead and McCoy Buildings to be sold. Under this option, the county will maintain the same overall operating costs, while investing in a building that is on the transit mall and easily accessible. When deferred maintenance issues are factored in, this move will provide enhanced public services and will save public funds over the next twenty years.

The Lincoln Building is located just one block north of the McCoy and Mead Buildings. The McCoy houses the county's Health Department, including administrative staff and clinic operations. The Mead Building houses Department of Community Justice parole and probation staff and services. Both departments have been in the downtown core for about two decades. Co-locating department programs offers comprehensive services for clients and patients and opportunities for streamlining services and reducing costs.

***Public Open House***

***March 7, 2007***

***5:00 pm to 6:30 pm***

***McCoy Building***

***426 SW Stark Street***

***10<sup>th</sup> Floor***

***Portland, Oregon 97204***

### ***Board of County Commissioners Meeting***

The Multnomah County Board of Commissioners will hear public testimony at a Board meeting in the next month. The date will be announced by public notice.



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**MULTNOMAH COUNTY OREGON**

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March 1, 2007

Contact: Rhys Scholes, 503-988-5273

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## **Open house planned for March 7**

### **Event will focus on Multnomah County's proposal to purchase building, consolidate downtown services**

Multnomah County invites community input on a proposal to consolidate most of the county's downtown services in a single location. The county is considering the purchase of the Lincoln Building (421 SW Oak Street) and subsequent sale of the Mead Building (421 SW Fifth Ave.) and McCoy Building (426 SW Stark St.) The Lincoln Building is located just one block north of the Mead and McCoy Buildings.

The Lincoln Building currently houses the Department of County Human Services and some Health Department administrative offices. The Mead Building is occupied by the Department of Community Justice. The Health Department's administrative offices and downtown health clinics are located at the McCoy Building.

The Board of County Commissioners originally considered leasing space at the Lincoln Building for Health Department functions, but owing to the high cost of tenant improvements associated with medical uses, indicated that a further expansion in the Lincoln Building should be owned. An owned building would allow further consolidation with the relocation of the Department of Community Justice programs located in the Mead Building.

According to Multnomah County Chair Ted Wheeler, "Greater cooperation and flexibility among county programs will serve clients and patients more effectively and invest scarce public resources more efficiently. This proposal meets both of those goals."

**The Open House will be held:**  
**Wednesday, March 7, 2007**  
**5:00 pm to 6:30 pm**  
**McCoy Building**  
**426 SW Stark Street**  
**10<sup>th</sup> Floor**  
**Portland, Oregon 97204**

\*\*\*

Public Affairs Office  
501 SE Hawthorne Blvd, Suite 600  
Portland, Oregon 97214  
(503) 988-6800 phone  
(503) 988-6801 fax



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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

Approving a Purchase Option for Real Property from BRCP/Unico Lincoln, LLC, ("Lincoln Building"), Located at 421 SW Oak Street, Portland, Oregon

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

- a. By Resolution 05-018, Multnomah County leases approximately 100,000 square feet of office space in the Lincoln Building, located at 421 SW Sixth Avenue, Portland, Oregon under a lease commencing June 30, 2005, and expiring on April 30, 2016. Programs of the Department of County Human Services ("DCHS") and Health Department ("Health") Administration are the primary tenants.
- b. The Lincoln Building is 255,000 square feet, occupying a full block in downtown Portland. Multnomah County owns two additional properties one block south of the Lincoln Building. The Gladys McCoy Building ("McCoy Building") is approximately 98,000 square feet, located at 426 SW Stark Street, housing Health Department programs, including the Westside Clinic. The Mead Building is approximately 76,000 square feet, located at 421 SW 5th Avenue, predominantly housing the Department of Community Justice ("DCJ").
- c. In November 2004, Multnomah County adopted a Consolidation and Disposition Strategy for Multnomah County Facilities (Resolution 04-168). In August 2005, Multnomah County adopted a Strategic Facilities Plan for Multnomah County Facilities (Resolution 05-148). Both the McCoy and Mead Buildings were identified in these documents as functionally deficient and possible candidates for replacement.
- d. Over the past fifteen months, Facilities and Property Management Division ("Facilities") has conducted an intensive and in-depth analysis of program space needs for the McCoy and Mead Buildings. The unique nature of programs in these buildings, along with proximity and space availability in the Lincoln Building, indicates a consolidation of programs into the Lincoln Building could have advantages in long-term operating costs, program flexibility, and client and patient access. In addition, the Aging and Disabilities Services West Office, operates in 8,357 square feet of leased space at 1111 SW 10th Avenue, which expires December 31, 2007. This program is also under consideration for consolidation into the Lincoln Building.
- e. After an intensive public and staff outreach process conducted by the Chair's Office, District 1 Commissioner's Office, Public Affairs Office, and Facilities, there is a high degree of community and stakeholder support for a potential consolidation into the Lincoln Building and a resulting disposition of the McCoy and Mead Buildings. Facilities, along with DCHS, DCJ, and Health, have begun due diligence, detailed space planning, financial sensitivity analysis, and operational and programmatic development for a possible consolidation.

- f. Facilities and County broker representation have negotiated with the Lincoln Building owners, BRCP/Unico Lincoln, LLC, ("Owners") on a possible transaction, lease or sale, over the past year. Facilities has drafted the attached Purchase Offer Letter, dated April 3, 2007, addressed to the Lincoln Building owners, as the best and final offer from the County on a purchase of the Lincoln Building, and the basis for a binding Purchase and Sale Option Agreement.
- g. It is in the best interests of the County to secure a Purchase and Sale Option Agreement on the terms and conditions set forth in the attached Purchase Offer Letter dated April 3, 2007.

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

- 1. The Board approves the attached Purchase Offer Letter as the basis for a Purchase and Sale Option Agreement. The County Chair is authorized to execute a final Purchase and Sale Option Agreement substantially conforming to the terms of the Purchase Offer Letter attached to this Resolution.
- 2. If the terms of the Purchase Offer Letter are accepted by the Owners, the Board directs Facilities to continue due diligence on the purchase of the Lincoln Building and to report back not later than June 1, 2007, with a report on the financial, operational, and structural conditions associated with a purchase of the Lincoln Building and a recommendation on the binding exercise of the purchase option and possible disposition of the McCoy and Mead Buildings. After receipt of the report and the recommendation, the Board will determine whether to proceed with the purchase of the Lincoln Building.

ADOPTED this 12th day of April 2007.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

---

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

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

SUBMITTED BY:  
Ted Wheeler, County Chair

# CresaPartners

C O R P O R A T E R E A L E S T A T E S E R V I C E A D V I S O R S

# DRAFT

Atlanta  
Austin  
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Bethesda  
Birmingham  
Boston  
Calgary  
Charlotte  
Chicago  
Cincinnati  
Dallas  
Denver  
Detroit  
Houston  
Indianapolis  
Kansas City  
Los Angeles  
Memphis  
Miami  
Minneapolis  
Montreal  
Morristown  
Nashville  
New York  
Orange County  
Ottawa  
Palo Alto  
Paramus  
Philadelphia  
Phoenix  
Pittsburgh  
Portland  
Princeton  
Sacramento  
San Francisco  
San Jose  
Seattle  
Stamford  
St. Louis  
Toronto  
Tucson  
Tysons Corner  
Vancouver  
Washington DC

April 5, 2007

Brian Pearce  
Unico Properties Inc.  
111 SW Fifth Avenue  
Portland, OR 97204

Dear Brian:

On behalf of Multnomah County, I am pleased to provide you with the following proposal to purchase the Lincoln Building.

**Seller:** BRCP/Unico Lincoln, LLC

**Buyer:** Multnomah County

**Sale Price:** \$39,950,000

**PSA Execution:** Buyer and Seller will make best efforts to execute a Purchase and Sale Agreement no later than seven days after the Multnomah County Commissioners approve this proposal and the Seller agrees to its terms. Buyer and Seller agree to use the form of Purchase and Sale Agreement that has already been reviewed by both parties as the base form.

**Due Diligence:** Buyer shall have a customary due diligence period that commences upon mutual execution of a Purchase and Sale Agreement and terminates on June 15, 2007.

**Closing:** The purchase shall close on or before July 15, 2007.

**Earnest Money:** Buyer shall deposit with the escrow company \$750,000 in the form a promissory note upon execution of the Purchase and Sale Agreement. This money shall be fully refundable in the event Buyer terminates this transaction for any reason prior to the end of the due diligence period. Upon expiration of the due diligence period, if the Buyer intends to close the transaction, Buyer shall convert the promissory note to cash and deposit an additional \$750,000 in cash with the escrow company, for a total non-refundable deposit of \$1,500,000. Seller accepts retention of the Earnest Money deposit as its sole remedy for Seller's failure to close.

# DRAFT

**Closing Costs/  
Prorates:**

Seller shall pay the premium for the title insurance policy. Seller and Buyer shall each pay one-half of the escrow fees. Taxes, rents, utilities, etc. shall be prorated as of the Closing Date.

**Building Condition:** Prior to closing, Seller shall complete the exterior painting of the building and the garage exhaust project. The building shall otherwise be purchased in "as-is" condition.

**Assignment to Seller**

**Of Certain Payments:** The Seller has previously entered into a lease termination agreement with Qwest Corporation for the third floor of the building to which the Buyer was not a party. As part of that agreement, Qwest is required to make payments to the building owner on or about August 1, 2007 and April, 2008, each in the amount of \$175,000 for a total of \$350,000. Buyer agrees to assign the payments to Seller and Seller shall collect these payments as they are made by Qwest.

**Loan Assumption:** Seller entered into a certain loan agreement for the building. Buyer agrees to assume the loan upon closing, with the loan principal fully applicable towards the Purchase Price.

**Real Estate Fees:** Seller shall pay a Real Estate Fee equal to 1.5% of the full Purchase Price at closing to CRESA Partners as the Buyer's sole representative. This amount is in conformance with the Transactions Services and Project Management Services provisions of a separate agreement between Buyer and Buyer's representative. Seller shall pay Seller's representative under separate agreement.

**Non-binding:** This document contains the basic terms under which the Buyer would agree to enter into a Purchase and Sale Agreement. It shall not, however, be binding on Buyer or Seller until such time as a Purchase and Sale Agreement has been agreed to and executed by both parties.

We appreciate your time and attention to this matter. Should you find the terms of this letter acceptable, please sign below and return by 5:00 pm on Monday, April 16. Upon execution, we will

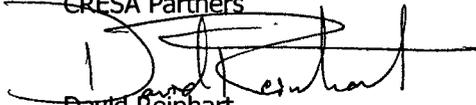
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CORPORATE REAL ESTATE SERVICE ADVISORS

# DRAFT

update the Purchase and Sale Agreement for your review. In consideration of the schedule, as you well know, time is of the essence.

Sincerely,  
CRESA Partners



David Reinhart  
Managing Principal

**NON-BINDING AGREEMENT TO THE ABOVE TERMS:**

On behalf of Buyer:

On behalf of Seller:

\_\_\_\_\_  
Ted Wheeler  
Multnomah County Chair

\_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 07-056**

Approving a Purchase Option for Real Property from BRCP/Unico Lincoln, LLC, ("Lincoln Building"), Located at 421 SW Oak Street, Portland, Oregon

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

- a. By Resolution 05-018, Multnomah County leases approximately 100,000 square feet of office space in the Lincoln Building, located at 421 SW Sixth Avenue, Portland, Oregon under a lease commencing June 30, 2005, and expiring on April 30, 2016. Programs of the Department of County Human Services ("DCHS") and Health Department ("Health") Administration are the primary tenants.
- b. The Lincoln Building is 255,000 square feet, occupying a full block in downtown Portland. Multnomah County owns two additional properties one block south of the Lincoln Building. The Gladys McCoy Building ("McCoy Building") is approximately 98,000 square feet, located at 426 SW Stark Street, housing Health Department programs, including the Westside Clinic. The Mead Building is approximately 76,000 square feet, located at 421 SW 5th Avenue, predominantly housing the Department of Community Justice ("DCJ").
- c. In November 2004, Multnomah County adopted a Consolidation and Disposition Strategy for Multnomah County Facilities (Resolution 04-168). In August 2005, Multnomah County adopted a Strategic Facilities Plan for Multnomah County Facilities (Resolution 05-148). Both the McCoy and Mead Buildings were identified in these documents as functionally deficient and possible candidates for replacement.
- d. Over the past fifteen months, Facilities and Property Management Division ("Facilities") has conducted an intensive and in-depth analysis of program space needs for the McCoy and Mead Buildings. The unique nature of programs in these buildings, along with proximity and space availability in the Lincoln Building, indicates a consolidation of programs into the Lincoln Building could have advantages in long-term operating costs, program flexibility, and client and patient access. In addition, the Aging and Disabilities Services West Office, operates in 8,357 square feet of leased space at 1111 SW 10th Avenue, which expires December 31, 2007. This program is also under consideration for consolidation into the Lincoln Building.
- e. After an intensive public and staff outreach process conducted by the Chair's Office, District 1 Commissioner's Office, Public Affairs Office, and Facilities, there is a high degree of community and stakeholder support for a potential consolidation into the Lincoln Building and a resulting disposition of the McCoy and Mead Buildings. Facilities, along with DCHS, DCJ, and Health, have begun due diligence, detailed space planning, financial sensitivity analysis, and operational and programmatic development for a possible consolidation.

- f. Facilities and County broker representation have negotiated with the Lincoln Building owners, BRCP/Unico Lincoln, LLC, ("Owners") on a possible transaction, lease or sale, over the past year. Facilities has drafted the attached Purchase Offer Letter, dated April 3, 2007, addressed to the Lincoln Building owners, as the best and final offer from the County on a purchase of the Lincoln Building, and the basis for a binding Purchase and Sale Option Agreement.
- g. It is in the best interests of the County to secure a Purchase and Sale Option Agreement on the terms and conditions set forth in the attached Purchase Offer Letter dated April 3, 2007.

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

- 1. The Board approves the attached Purchase Offer Letter as the basis for a Purchase and Sale Option Agreement. The County Chair is authorized to execute a final Purchase and Sale Option Agreement substantially conforming to the terms of the Purchase Offer Letter attached to this Resolution.
- 2. If the terms of the Purchase Offer Letter are accepted by the Owners, the Board directs Facilities to continue due diligence on the purchase of the Lincoln Building and to report back not later than June 1, 2007, with a report on the financial, operational, and structural conditions associated with a purchase of the Lincoln Building and a recommendation on the binding exercise of the purchase option and possible disposition of the McCoy and Mead Buildings. After receipt of the report and the recommendation, the Board will determine whether to proceed with the purchase of the Lincoln Building.

ADOPTED this 12th day of April 2007.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
\_\_\_\_\_  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

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

SUBMITTED BY:  
Ted Wheeler, County Chair

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Los Angeles  
Memphis  
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Minneapolis  
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Morristown  
Nashville  
New York  
Orange County  
Ottawa  
Palo Alto  
Paramus  
Philadelphia  
Phoenix  
Pittsburgh  
Portland  
Princeton  
Sacramento  
San Francisco  
San Jose  
Seattle  
Stamford  
St. Louis  
Toronto  
Tucson  
Tysons Corner  
Vancouver  
Washington DC

April 12, 2007

**Brian Pearce**  
Unico Properties Inc.  
111 SW Fifth Avenue  
Portland, OR 97204

Dear Brian:

On behalf of Multnomah County, I am pleased to provide you with the following proposal to purchase the Lincoln Building.

**Seller:** BRCP/Unico Lincoln, LLC

**Buyer:** Multnomah County

**Sale Price:** \$39,950,000

**PSA Execution:** Buyer and Seller will make best efforts to execute a Purchase and Sale Agreement no later than seven days after the Multnomah County Commissioners approve this proposal and the Seller agrees to its terms. Buyer and Seller agree to use the form of Purchase and Sale Agreement that has already been reviewed by both parties as the base form.

**Due Diligence:** Buyer shall have a customary due diligence period that commences upon mutual execution of a Purchase and Sale Agreement and terminates on June 15, 2007.

**Closing:** The purchase shall close on or before July 15, 2007.

**Earnest Money:** Buyer shall deposit with the escrow company \$750,000 in the form a promissory note upon execution of the Purchase and Sale Agreement. This money shall be fully refundable in the event Buyer terminates this transaction for any reason prior to the end of the due diligence period. Upon expiration of the due diligence period, if the Buyer intends to close the transaction, Buyer shall convert the promissory note to cash and deposit an additional \$750,000 in cash with the escrow company, for a total non-refundable deposit of \$1,500,000. Seller accepts retention of the Earnest Money deposit as its sole remedy for Buyer's failure to close.

**Closing Costs/  
Prorates:**

Seller shall pay the premium for the title insurance policy. Seller and Buyer shall each pay one-half of the escrow fees. Taxes, rents, utilities, etc. shall be prorated as of the Closing Date.

**Building Condition:** Prior to closing, Seller shall complete the exterior painting of the building and the garage exhaust project. The building shall otherwise be purchased in "as-is" condition.

**Assignment to Seller**

**Of Certain Payments:** The Seller has previously entered into a lease termination agreement with Qwest Corporation for the third floor of the building to which the Buyer was not a party. As part of that agreement, Qwest is required to make payments to the building owner on or about August 1, 2007 and April, 2008, each in the amount of \$175,000 for a total of \$350,000. Buyer agrees to assign the payments to Seller and Seller shall collect these payments as they are made by Qwest.

**Loan Assumption:** Seller entered into a certain loan agreement for the building. Buyer agrees to assume the loan upon closing, with the loan principal fully applicable towards the Purchase Price.

**Real Estate Fees:** Seller shall pay a Real Estate Fee equal to 1.5% of the full Purchase Price at closing to CRESA Partners as the Buyer's sole representative. This amount is in conformance with the Transactions Services and Project Management Services provisions of a separate agreement between Buyer and Buyer's representative. Seller shall pay Seller's representative under separate agreement.

**Non-binding:** This document contains the basic terms under which the Buyer would agree to enter into a Purchase and Sale Agreement. It shall not, however, be binding on Buyer or Seller until such time as a Purchase and Sale Agreement has been agreed to and executed by both parties.

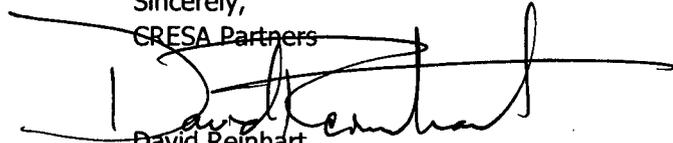
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C O R P O R A T E   R E A L   E S T A T E   S E R V I C E   A D V I S O R S

We appreciate your time and attention to this matter. Should you find the terms of this letter acceptable, please sign below and return by 5:00 pm on Monday, April 16. Upon execution, we will update the Purchase and Sale Agreement for your review. In consideration of the schedule, as you well know, time is of the essence.

Sincerely,

CRESA Partners



David Reinhart

Managing Principal

**NON-BINDING AGREEMENT TO THE ABOVE TERMS:**

On behalf of Buyer:

On behalf of Seller:

\_\_\_\_\_  
Ted Wheeler  
Multnomah County Chair

\_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_



**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST (long form)**

APPROVED : MULTNOMAH COUNTY  
 BOARD OF COMMISSIONERS  
 AGENDA # R-7 DATE 04-12-07  
 DEBORAH L. BOGSTAD, BOARD CLERK

**Board Clerk Use Only**

Meeting Date: 04/12/07  
 Agenda Item #: R-7  
 Est. Start Time: 10:40 AM  
 Date Submitted: 04/04/07

**NOTICE OF INTENT to Apply for Small Grants (\$100 to \$5,000) from**  
**Agenda Title: Pharmaceutical Companies to Support the HIV Health Services Center Client**  
**Advisory Board Outreach Activities**

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

**Requested Meeting Date:** April 12, 2007      **Amount of Time Needed:** 5 minutes

**Department:** Health      **Division:** Integrated Clinical Services  
HIV Health Services Center

**Contact(s):** Jodi Davich

**Phone:** 503-988-3663      **Ext.** 26561      **I/O Address:** 160/4

**Presenter(s):** Jodi Davich, Kate Langley Powell and Everett Charters

**General Information**

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

Authorize the HIV Health Services Center to apply annually for small grants ranging from \$100 to \$5,000 from the following pharmaceutical companies: Boehringer-Ingelheim, Gilead, Tibotec, Pfizer, and Abbott, to support Client Advisory Board outreach activities.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

The human immunodeficiency virus (HIV) epidemic continues to pose enormous challenges in the United States, both for the communities most affected and for health care professionals who serve these communities. As of 12/31/05, 3,952 persons were estimated as living with HIV in the six-county Portland Eligible Metropolitan Area (EMA). The EMA is a six-county area that includes Multnomah, Washington, Clackamas, Columbia, Yamhill and Clark counties. Although over time HIV has increasingly affected women, 88.2% of People Living With HIV (PLWH) are men. 77.9% of PLWH are men who have sex with men (MSM) including MSM/Intravenous Drug Use. Persons with HIV are five times more likely than the general population to be below 100% of the poverty level, nine times more likely to be homeless, and twice as likely to suffer from substance abuse and mental illness. HIV disproportionately affects people in poverty, racial/ethnic minority populations

and others who are underserved by healthcare and prevention systems.

MCHD has provided medical care to HIV infected individuals from the onset of HIV disease, through its primary care clinics. To respond to the growing number of HIV/AIDS clients, and the demand for specialized care from "expert" providers, MCHD applied for and was awarded Ryan White Title III Early Intervention funds in 1990. MCHD is the only agency in Oregon with Ryan White Title III Early Intervention funds. These funds established the HIV Health Services Center in 1990, and the clinic has been in operation since that time. This Center serves a six-county area that includes Multnomah, Washington, Clackamas, Columbia, Yamhill and Clark counties.

The HIV Health Services Center (HHSC) is a major provider of HIV-specific care in the state of Oregon and is projected to serve over 750 clients in 2007. The Center has existing linkages and partnerships with many community-based-agencies. All clinical providers at HHSC have a minimum of 5 years experience in HIV care and treatment, and support staff have specialized in HIV services. All clinic staff have chosen to work in the HIV service field, and bring great passion and commitment to their work. HHSC is recognized locally and nationally as a center of excellence.

The HIV Health Services Center has a Client Advisory Board (CAB) that has made contact with the following companies to explore the possibility of receiving small grants to further their outreach efforts: Boehringer-Ingelheim, Gilead, Tibotec, Pfizer and Abbott. These companies have historically contributed small amounts of money to the HIV Clinic to support small project and special activities. Grant funds would be used to support the CAB's efforts related to developing a variety of educational activities to promote HIV prevention, and safer sex practices and prevention with positives. The project will be lead by CAB members and HIV Health Services Center staff, and will be implemented in collaboration with other organizations that serve persons living with HIV.

**Program Offers Affected:** This funding initiative will support community outreach and patient education. The following program offers will be impacted by the proposed demonstration project:

- Program # 40022 - Services for Persons Living with HIV (HIV Clinic and CHS Care Services)

Program Offer # 40044 HIV/Hep C Community Prevention

**Funds associated with this grant will not supplant County funding requested in these program offers. Funds will be used to enhance the proposed program offers.**

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

The HIV Health Services Center will request varying amounts of funds from each of the pharmaceutical companies based on the recommendations of each company's HIV Clinic liaison.

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

None known.

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

Citizen stakeholders are represented on the MCHD's Community Health Council, the HIV Planning Council and the HIV Health Services Center's Client Advisory.

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# ATTACHMENT A

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## Grant Application/Notice of Intent

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

- **Who is the granting agency?**

The following pharmaceutical companies: Boehringer-Ingelheim, Gilead, Tibotec, Pfizer and Abbott.

- **Specify grant (matching, reporting and other) requirements and goals.**

These pharmaceutical companies have historically supported the HIV Clinic and HIV Prevention services by making small financial contributions (\$100 to \$5,000) that are used to support training, meetings, health education materials, speakers, client information, etc. Most of these companies have a simple online application. Each request will reflect the input of the company representative vis-à-vis how much to request and the specifics of the request. For example, a company might support the printing of outreach materials while another company might support refreshments for community meetings or stipends for volunteers. These mini-grants do not require any matching funds and have no or very limited reporting requirements.

- **Explain grant funding detail – is this a one time only or long term commitment?**

These will be one-time only funding requests. We may make more than one request from a company over a period of time depending on the giving guidelines of each company. We anticipate asking each of these companies for support at least annually.

- **What are the estimated filing timelines?**

The filing deadlines vary by company. Our first request is going to Boehringer-Ingelheim which has an April 15<sup>th</sup> deadline.

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

The time period will vary by request but will not be longer than 12 months.

- **When the grant expires, what are funding plans?**

The HIV Clinic will continue to apply for similar support from the pharmaceutical companies.

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

Due to the small nature of the anticipated contributions, administrative costs will be covered from the ongoing HIV Health Services Center budget.

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## ATTACHMENT B

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### Required Signatures

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**Elected Official or  
Department/  
Agency Director:**

*Lillian Shirley*

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**KJ  
Date: 04-04-07**

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**Budget Analyst:**

*Debraha*

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**Date: 04/04/07**

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**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST (short form)**

**Board Clerk Use Only**

Meeting Date: 04/12/07  
 Agenda Item #: R-8  
 Est. Start Time: 10:45 AM  
 Date Submitted: 03/28/07

**Agenda Title: RESOLUTION Exempting the Emergency Notification Project for the Multnomah County Court House from Administrative Procedure FAC-1 Relating to Construction of Major Facilities Capital Projects**

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

Requested Meeting Date: April 12, 2007 Amount of Time Needed: 5 minutes  
 Department: Department of County Management Division: FPM  
 Contact(s): Clark Jurgemeyer  
 Phone: 503 988-3074 Ext. 83074 I/O Address: 274/FPM  
 Presenter(s): John Lindenthal, Clark Jurgemeyer

**General Information**

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

Resolution exempting a major capital maintenance project from Major Facilities Capital Project (MFCP) requirements, pursuant to Resolution 02-136 and FAC-1 administrative procedures.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

Proposed work will add fire detection in egress paths (exit routes), equipment rooms, vertical shafts, and basement storage; provide strobe lights and speakers in all public spaces (in lieu of alarm bells); and satisfy Fire Marshal requirements.

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

Phase 1 is funded by the 2006/2007 Adopted Budget (\$750,000). Phase 2 is part of the 2007/2008 Proposed Budget (\$500,000).

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

Proposed work will satisfy Fire Marshal mandates to upgrade the fire detection and alarm system in the Court House.

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

The work involves and affects the Oregon Judicial Department, Multnomah County District Attorney's Office, Multnomah County Sheriff's Office, and Department of County Management (Facilities and Property Management Division).

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**Required Signature**

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**Elected Official or  
Department/  
Agency Director:**

*Carol M. Ford*

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**Date:** 03/28/07

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# MULTNOMAH COUNTY OREGON

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DEPARTMENT OF COUNTY MANAGEMENT  
FACILITIES AND PROPERTY MANAGEMENT DIVISION  
401 NORTH DIXON STREET (FIRST FLOOR)  
PORTLAND, OREGON 97227-1865  
(503) 988-5643 FAX  
(503) 988-3322

BOARD OF COUNTY COMMISSIONERS  
TED WHEELER • CHAIR OF THE BOARD  
MARIA ROJO DE STEFFEY • DISTRICT 1 COMMISSIONER  
JEFF COGAN • DISTRICT 2 COMMISSIONER  
LISA NAITO • DISTRICT 3 COMMISSIONER  
LONNIE ROBERTS • DISTRICT 4 COMMISSIONER

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## MEMORANDUM

**DATE:** March 27, 2007

**TO:** Agenda Review Team

**CC:** Carol Ford, Department of County Management Director  
Douglas E. Butler, Facilities and Property Management Division Director

**FROM:** Clark R. Jurgemeyer

**SUBJECT:** Multnomah County Court House Emergency Notification Project – Exemption

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The Emergency Notification Project responds to Fire Marshal mandates for improvement to fire detection and alarm systems in the Multnomah County Court House. After design started, the Fire Marshal added requirements for more fire detection in the Basement and all egress paths (exit routes) in the building. As design progressed, the difficulty to perform work in an occupied and aging building became more apparent. When project design reached 90% completion, the Architect/Engineer updated their construction cost estimates which indicated the total project budget would exceed one million dollars.

The Board authorized \$750,000 for the Emergency Notification Project in the 2006/2007 Adopted Budget. The Emergency Notification Project will require an additional \$500,000 to complete, which is included in the 2007/2008 Proposed Budget. Because the Emergency Notification project total budget (\$1,250,000) exceeds \$1,000,000, Board review is required pursuant to Resolution 02-136 and FAC-1.

However, FAC-1 administrative procedures for "Construction of Major Facilities Capital Projects included in the Capital Improvement Program (CIP)" [July 2004] provides that an exemption may be submitted for Board approval if the work is a major capital maintenance project initiated by Facilities and Property Management (FPM) and provided in the approved FPM budget.

Because the project work is required and not discretionary, FPM requests a Resolution that exempts the Emergency Notification Project for the Multnomah County Court House from FAC-1 requirements relating to construction of Major Facilities Capital Projects. In support, please find the following attachments:

- Agenda Placement Request
- Board Resolution

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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

Exempting the Emergency Notification Project for the Multnomah County Court House from Administrative Procedure FAC-1 Relating to Construction of Major Facilities Capital Projects

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

- a. On October 17, 2002, by Resolution 02-136, the Board established a policy for construction of major facilities capital projects with budgets greater than \$1 million (major projects). As directed by the Board, Facilities and Property Management (FPM) developed administrative procedure FAC-1 for planning and management of major projects.
- b. As approved by the Chair, FAC-1 defines major projects, identifies participant roles and responsibilities and designates the key milestones for major project control and authorization by the Board. Section II.A.5. of FAC-1 states "If the project has been approved in the Facilities Management budget, a request for exemption from the requirements of Resolution 02-136 may be submitted to the Board for approval."
- c. The Fire Marshal has mandated that the County upgrade fire detection and alarm systems in the Multnomah County Court House as a condition of continued occupancy. The Emergency Notification Project addresses the Fire Marshal upgrade requirements.
- d. The Board authorized \$750,000 for the Emergency Notification Project in the 2006/2007 Adopted Budget. The Emergency Notification Project will require an additional \$500,000 to complete. The Capital Improvement Program has included another \$500,000 in the 2007/2008 Proposed Budget for the Emergency Notification Project. Because the Emergency Notification Project total budget exceeds \$1,000,000, Board review pursuant to Resolution 02-136 and FAC-1 is required.
- e. Because the work required is mandated and not discretionary, it is in the best interests of the County to exempt the Emergency Notification Project from the requirements of Resolution 02-136 and FAC-1 as no purpose would be served by following the procedures set forth therein.

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

1. The Board approves an exemption from the requirements of Resolution 02-136 and FAC-1 for the Emergency Notification Project.

ADOPTED this 12th day of April, 2007

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

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Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

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

SUBMITTED BY:  
Carol M. Ford, Director, Dept. of County Management

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 07-057**

Exempting the Emergency Notification Project for the Multnomah County Court House from Administrative Procedure FAC-1 Relating to Construction of Major Facilities Capital Projects

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

- a. On October 17, 2002, by Resolution 02-136, the Board established a policy for construction of major facilities capital projects with budgets greater than \$1 million (major projects). As directed by the Board, Facilities and Property Management (FPM) developed administrative procedure FAC-1 for planning and management of major projects.
- b. As approved by the Chair, FAC-1 defines major projects, identifies participant roles and responsibilities and designates the key milestones for major project control and authorization by the Board. Section II.A.5. of FAC-1 states "If the project has been approved in the Facilities Management budget, a request for exemption from the requirements of Resolution 02-136 may be submitted to the Board for approval."
- c. The Fire Marshal has mandated that the County upgrade fire detection and alarm systems in the Multnomah County Court House as a condition of continued occupancy. The Emergency Notification Project addresses the Fire Marshal upgrade requirements.
- d. The Board authorized \$750,000 for the Emergency Notification Project in the 2006/2007 Adopted Budget. The Emergency Notification Project will require an additional \$500,000 to complete. The Capital Improvement Program has included another \$500,000 in the 2007/2008 Proposed Budget for the Emergency Notification Project. Because the Emergency Notification Project total budget exceeds \$1,000,000, Board review pursuant to Resolution 02-136 and FAC-1 is required.
- e. Because the work required is mandated and not discretionary, it is in the best interests of the County to exempt the Emergency Notification Project from the requirements of Resolution 02-136 and FAC-1 as no purpose would be served by following the procedures set forth therein.

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

1. The Board approves an exemption from the requirements of Resolution 02-136 and FAC-1 for the Emergency Notification Project.

ADOPTED this 12th day of April, 2007

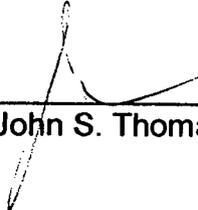
BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON



  
\_\_\_\_\_  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

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

SUBMITTED BY:

Carol M. Ford, Director, Dept. of County Management



**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST (short form)**

**Board Clerk Use Only**

Meeting Date: 04/12/07  
 Agenda Item #: R-9  
 Est. Start Time: 10:50 AM  
 Date Submitted: 03/29/07

**Agenda Title: Fiscal Year 2007 Third Quarter Financial Report and Update**

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

**Requested Meeting Date:** April 12, 2007      **Amount of Time Needed:** 30 Minutes  
**Department:** County Management      **Division:** Budget and Evaluation  
**Contact(s):** Mark Campbell, Deputy Budget Manager  
**Phone:** 503-988-3312      **Ext.** 24213      **I/O Address:** 501/531  
**Presenter(s):** Mark Campbell

**General Information**

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

This is a briefing on the status of the County's financial condition through the third quarter of FY 2007. This briefing will provide an overview of current year revenue and expenditure trends. The Budget Office will address the impact those trends may have on budget deliberations for FY 2008. This is an informational briefing and no action is required of the Board at this time.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

The Budget Office provides the Board of County Commissioners with regular updates on the financial status of the General Fund. These briefings are designed to inform the Board of conditions which may impact the County's "bottom line". They are scheduled quarterly to provide sufficient time to make budgetary adjustments if/when they are necessary.

This briefing will focus on expenditure and revenue trends through the end of March 2007. We will also provide a status report on the General Fund contingency and other issues impacting the current budget.

We will also address a few specific areas where the Board will be asked to make budgetary adjustments prior to the end of the fiscal year. These include two Contingency requests identified in Budget Notes that the Board will be asked to approve.

The Budget Office will continue to monitor expenditure and revenue trends. A fourth quarter report and update is scheduled for mid-June. At that time we will report in greater detail on those issues that may require corrective action before the end of the fiscal year.

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

None

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

None

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

None

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**Required Signature**

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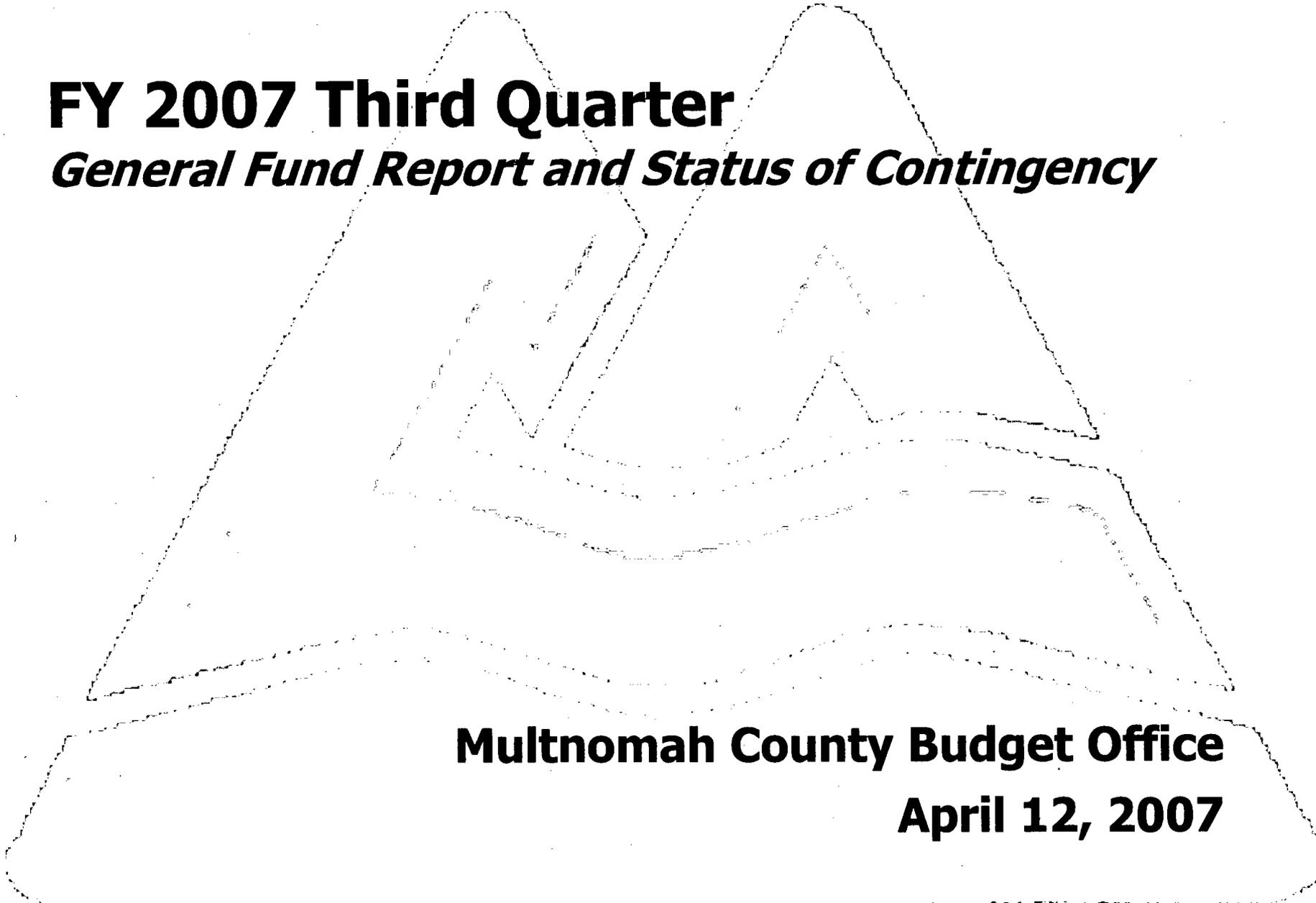
**Elected Official or  
Department/  
Agency Director:**

*Carol M. Ford*

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**Date:** 03/29/07

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**FY 2007 Third Quarter**

***General Fund Report and Status of Contingency***

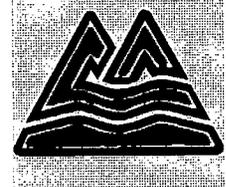
**Multnomah County Budget Office**

**April 12, 2007**

# Introduction

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- Purpose of This Report
  - Provide BCC w/ Most Recent Forecast Update
  
- Revenue Forecast
  - Changes to Forecast Since FY07\_Q2 Update
  - Impact on FY 2008 Revenue Assumed in Executive Budget
  
- Expenditure Forecast
  - Comparison of Current Year Estimates
  - Assumptions – Impact on Year End
  - Program Areas We Are Monitoring Closely
  
- Status of General Fund Contingency



# FY 2007 Revenues

## Revenue Forecast Comparison

Adopted Compared to Q2 and Q3 Forecast

	Adopted Budget	Second Quarter Estimate	Third Quarter Estimate
Property Taxes	\$ 196,783,515	\$ 197,339,107	\$ 197,339,107
Business Income Tax	40,500,000	51,750,000	56,275,000
Motor Vehicle Rental	11,750,000	12,207,113	12,176,091
A&T Sources (1)	9,426,000	9,697,904	9,581,603
State Shared Sources (2)	7,848,524	8,341,543	8,341,543
Interest Earnings	2,200,000	2,849,646	2,849,646
Subtotal	\$ 268,508,039	\$ 282,185,313	\$ 286,562,990
Beginning Working Capital	47,200,000	54,963,630	54,963,630
All Other GF (3)	49,691,121	46,207,748	46,229,346
Total General Fund	\$ 365,399,160	\$ 383,356,692	\$ 387,755,966

### Notes:

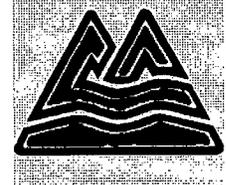
1. A&T Sources = State "CAFFA" Grant and Recording Fees
2. State Shared Sources = Video Lottery, Cigarette, Liquor, and Amusement Device Taxes
3. All Other GF = Department Specific Revenues and Prior Year ITAX Collections



# Changes to Forecast

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- Overall Revenue Forecast – Approximately 6.25% Higher Than Adopted Budget
- BIT – FY 2007 Another Growth Year - Estimate Revenue to Increase 10% to 11% on a Year-Over-Year Basis
- Motor Vehicle Rental and A&T Sources Revised Slightly Downward - Indicator That Economic Growth Has Slowed
- All Other General Fund Revenues Consistent w/ FY07\_Q2 Forecast Update



# Adjustments to FY 2008 Revenue

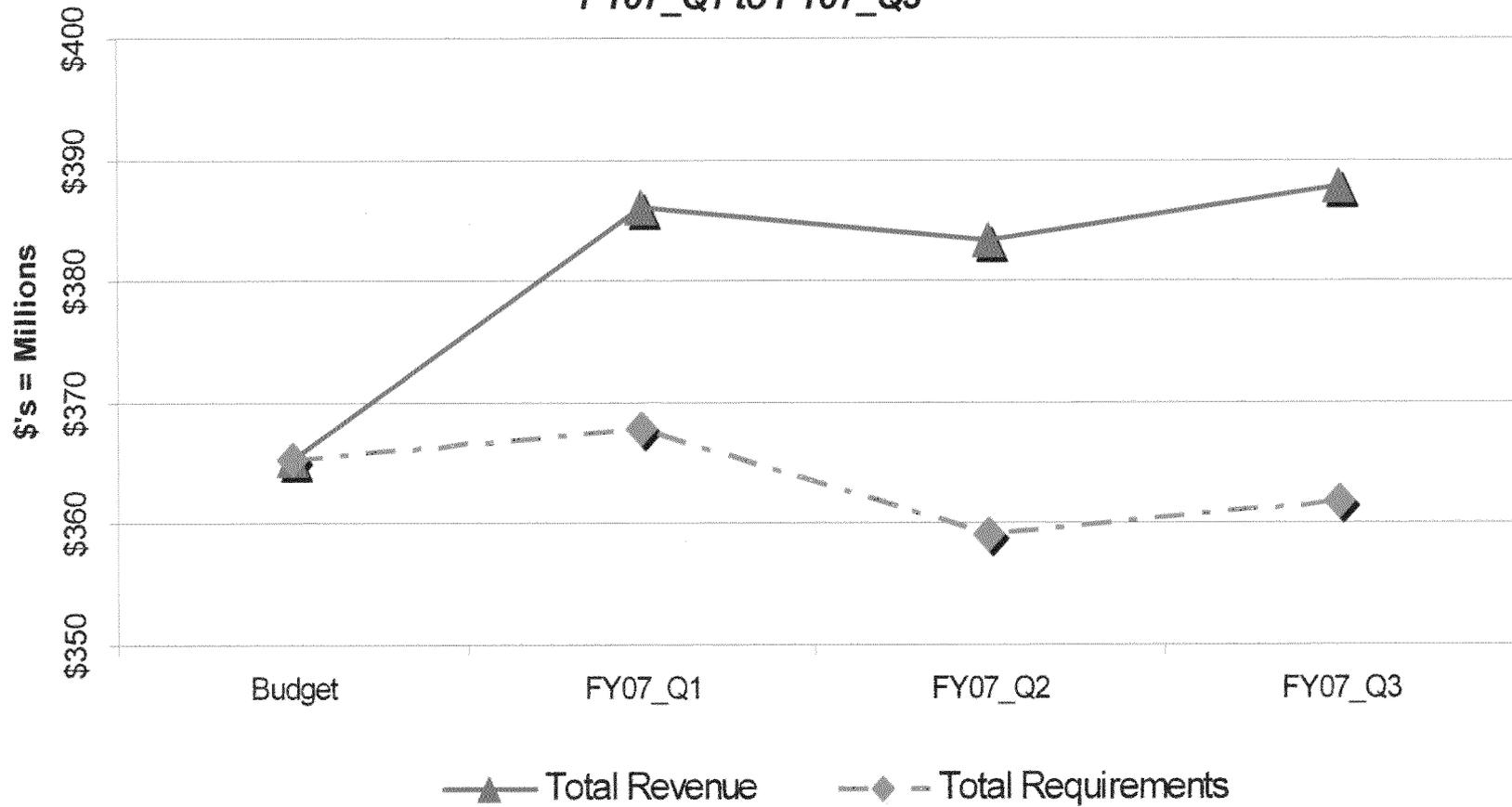
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- Revised Amount Available to Purchase Program Offers in Chair's Proposed Budget
- BIT – Increased to \$52.2 Million – Assume About a Third of Revised BIT Growth is Ongoing (**\$1.5M Additional**)
- Increased Jail and Juvenile Detention Revenue From Other Jurisdictions to More Fully Cover Costs (**\$1.4M Additional**)
- Assumed Reauthorization of Federal "County Payments" Program – Add Back O&C Revenue (**\$.8M Additional**)
- Reduced Assumed Level of State Department of Corrections Revenue per Co-Chair's Budget (**\$2.0M Reduction**)



# Current Year Trends

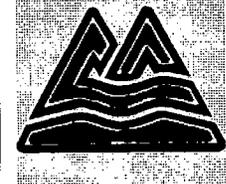
## YTD Forecast Variance FY07\_Q1 to FY07\_Q3



# Current Year Spending

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- Third Quarter Spending Estimate Based on Department CYEs Submitted in February
- Overall Spending Forecast @ 98% to 99% of Budget - Slightly Higher Than Historical Averages
- Forecast Reflects Potential Overspending in The Following Areas:
  - Health Department
  - Sheriff's Office
- Contingency Requests Pending for Both Departments (**\$2 Million**)
- May Need Additional Resources to Balance @ Year-End



# Status of Contingency

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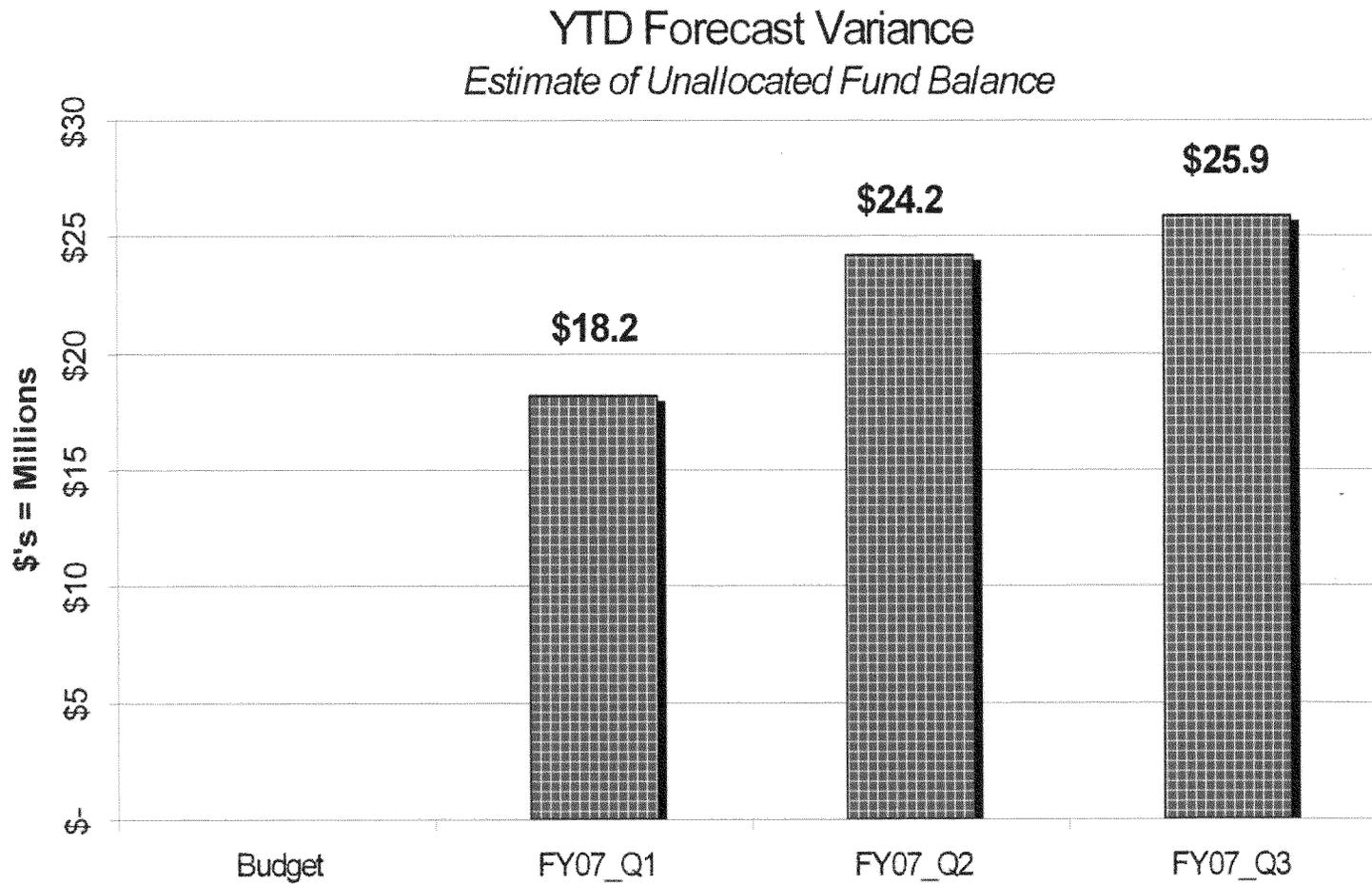
	<u>Amount</u>
"Regular" Contingency	\$ 1,335,706
BIT Stabilization Reserve	3,500,000
<b>MCSO Corrections Overtime</b>	<b>1,000,000</b>
<b>Corrections Health</b>	<b>1,000,000</b>
Class/Comp Studies	918,034
<b>Total - GF Contingency</b>	<b>\$ 7,753,740</b>

## Contingency Allocated to Date (Through 3/31/07)

OSCP-01	\$ 384,841
DCHS-04	57,882
NOND-03	108,988
MCSO-01	50,000
DA-03	61,852
MCSO-05	62,912
OSCP-09	327,030
<b>Total Spent to Date</b>	<b>\$ 1,053,505</b>
<b>Remaining Balance</b>	<b>\$ 6,700,235</b>
"Regular" Contingency Remaining	282,201



# Forecast Change in Unallocated Fund Balance



# Summary

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- Revenue Increased by **\$4.4 Million** Since FY07\_Q2 Forecast – Mostly Attributable to BIT
- Updated FY 2008 Fiscal Parameters for Chair’s Executive Budget Based on This Revenue Forecast
- Reasons For Caution in Allocating Additional FY 2007 Revenue
  - Potential Needs in Health/MCSO (**Up To \$3.5M in Total**)
  - Unknowns Surrounding State Budget – Briefing Scheduled on 4/17
  - Reauthorization of Federal “County Payments” Not Certain
- Next Steps
  - State “Close of Session” Revenue Forecast Due on 5/15
  - Return to Board in June to Address Potential Budget Actions
- Questions, Comments, Information Requests?





**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST (short form)**

**Board Clerk Use Only**

Meeting Date: 04/12/07  
 Agenda Item #: R-10  
 Est. Start Time: 1:30 PM  
 Date Submitted: 03/14/07

**Continued Public Hearing to Consider and Possibly Act Upon a Measure 37  
 Claim by Elbridge and Dorothy Hardin for \$300,000 in Compensation or Relief  
 from Regulations to Allow Development of a Single Family Residence on Each of  
 Agenda Two Properties Located Adjacent to 4510 SE 302nd Avenue (Case File T1-06-  
 Title: 079) [Continued from March 29, 2007]**

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

Requested Meeting Date: April 12, 2007 Amount of Time Needed: 10 minutes  
 Department: Community Services Division: Land Use & Transportation  
 Contact(s): Derrick Tokos, Adam Barber, Sandra Duffy  
 Phone: 503-988-3043 Ext. 22599 I/O Address: 455/116  
 Presenter(s): Adam Barber, Sandra Duffy

**General Information**

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

A public hearing and a decision regarding a Measure 37 claim by Elbridge and Dorothy Hardin to waive land use regulations which prohibit the development of a single family dwelling on each of two parcels located on SE 302nd Ave. Land use planning has outlined an approach to deciding this claim in a staff report March 13, 2007.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

For a claim to be valid, the land use regulations challenged must restrict the claimants use of private real property in a manner that reduces the fair market value of the property relative to how the property could have been used at the time the claimants acquired the property. As outlined in the staff report and memorandum from the County Attorney's Office, this requirement has not been met.

The claimants have not established that they reacquired the properties in 1974 as they have asserted

in their claim. The date of ownership established in the deed records is February 23, 1984, and the property was subject to restrictive regulations of the EFU zone at that time. The claimants own three contiguous properties, one of which contains a dwelling. The regulations in effect in 1984 and today preclude additional dwellings on the two vacant parcels because there is already a dwelling on the Lot of Record.

Staff recommends the Board of Commissioners deny this claim.

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

There is no fiscal impact on this invalid claim.

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

Policy and legal issues are outlined in a staff report from Land Use Planning March 13, 2007. The County Attorney has advised that any property rights obtained by relief from land use regulations are not transferable under Ballot Measure 37, consistent with the DOJ opinion of February 2005.

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

Public notice of this hearing has been mailed to all property owners within 750 feet of the subject property, and the claimant. Deliberation and any action on this item will be done following a public hearing at which interested citizens will have an opportunity to testify and provide written comment in accordance with the Board of Commissioners rules of procedure for the hearing.

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**Required Signature**

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Elected Official or  
Department/  
Agency Director:



Date: 03/14/07

---



**LAND USE & TRANSPORTATION  
PLANNING PROGRAM**

1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233  
PH: 503-988-3043 FAX: 503-988-3389  
<http://www.co.multnomah.or.us/landuse>

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## Staff Analysis of a Measure 37 Claim

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The following matter is scheduled for public hearing, deliberation and possible action before the Multnomah County Board of Commissioners

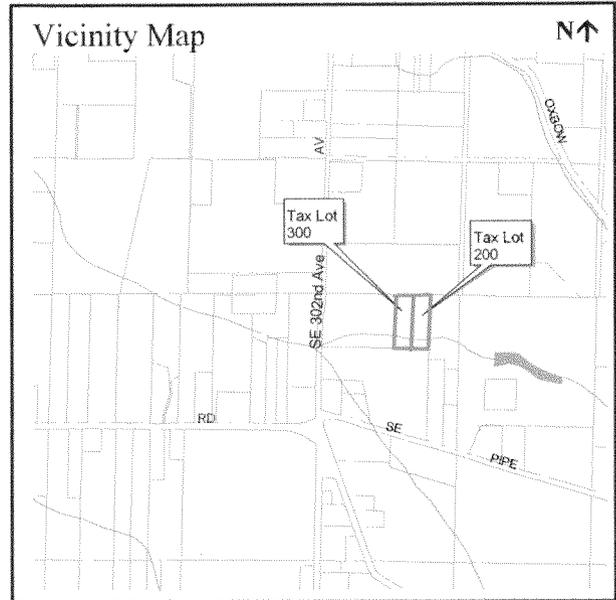
Hearing Date, Time, & Place:

**Thursday, March 29, 2007 at 10:00 am** or soon thereafter, in the Commissioners' Board Room of the Multnomah Building, located at 501 SE Hawthorne, Portland, Oregon.

**Case File:** T1-06-079

**Claimants:** Elbridge & Dorothy Hardin  
4510 SE 302<sup>nd</sup> Avenue  
Troutdale, OR 97060

**Location:** (No address for either lot)  
Tax Lot 200 & 300, Section 17BB,  
Township 1 S, Range 4 E, W.M.  
Acct. # R994170630 (TL 200)  
Acct. # R994170660 (TL 300)



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**Claim:** Relief from land use regulations to allow one single family dwelling on each of the two vacant 2.00 acre lots.

**Zoning:** Exclusive Farm Use (EFU), Significant Environmental Concern (SEC water resources) and Hillside Development (HD).

**Site Size:** Each lot is 2.00 acres.

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**Approach to Deciding the Claim:**

For a claim to be valid, the land use regulations challenged must restrict the claimant's use of private real property in a manner that reduces its fair market value relative to how it could have been used at the time the claimant acquired the property. The claimants have failed to establish that they acquired the properties prior to the date Exclusive Farm Use regulations were enacted prohibiting non-farm dwellings on the tax lots. Consequently, the claimant's use of the property has not been restricted by subsequent regulations and there has been no reduction in the fair market value of either property. Planning staff recommends that the Board of Commissioners deny this claim.

*(The following is a step-by-step evaluation of the claim, which consists of the application materials submitted by the claimants. The analysis is structured as a series of questions that must be answered to establish if a claim is valid, comparable to the methodology outlined in a February 24th, 2005 memo authored by the State Attorney General's Office.)*

**1. *Has the owner made a complete written demand under Ballot Measure 37?***

**Yes. The materials submitted by the claimant constitute a complete written demand for compensation as required by Multnomah County Code 27.520.**

This Measure 37 claim was submitted on November 8<sup>th</sup>, 2006. Staff reviewed the application and determined information required by Multnomah County Code 27.520 was missing. Staff prepared a letter listing the outstanding information required to complete the claim and mailed that letter to the claimant on November 17<sup>th</sup>, 2006. On January 2<sup>nd</sup>, 2007, the claimant submitted a revised title report, clarification that the desired relief is one dwelling on each of the two lots, estimates of value, and evidence of continuous ownership of the lots since July 31, 1973. These and other materials in the claim record constitute a complete written demand for compensation complying with the county's requirements (MCC 27.520).

**2. *Did the claimant acquire the properties before the laws in question were adopted?***

**No. The claimants have failed to establish that they acquired the two properties prior to the date the Exclusive Farm Use regulations challenged in this claim were enacted.**

The deed documents submitted indicate the claimants sold both lots to Katherine Long in 1967 (Tax Lot 200 sold July 5<sup>th</sup>, 1967 in Book 570, Page 504 & Tax Lot 300 sold November 7, 1967 in Book 592, Page 38 – Exhibit 2). The claimants then purchased both lots back from Ms. Long on February 23<sup>rd</sup>, 1984 (Book 1728, Page 1535 – Exhibit 3). The claimants have indicated that they have held a continual ownership in both lots since July 31, 1974, although no deed documents have been submitted substantiating this claim. The title report for these two properties only references the 1984 deed. During a phone conversation held 2/9/07, Eldrige Hardin (claimant) believed that he may have acquired both properties in 1974 on a verbal agreement which was not put into writing until 1984. A verbal agreement does not create ownership interest in private real property. The title report in Exhibit 4 confirms the claimants have held a continual interest in both properties since 1984.

Both properties were subject to dwelling limitations in EFU zoning regulations adopted in 1980 when the claimants purchased the lots back from Ms. Long in 1984. The EFU zoning regulations in effect upon acquisition required lots to be at least 38-acres to qualify for a single family dwelling (Ordinance 300 - MCC 11.15.2008(C), Exhibit 5) and considered all three lots to be aggregated into one lot of record because all were under the same ownership and less than 38-acres (Ordinance 300 - MCC 11.15.2018(B)(1), Exhibit 5). Although the EFU zoning Regulations in effect in 1984 were drafted a bit differently than the current EFU regulations, the intent and effect was the same in that both sets of regulations prevent residential development on both vacant lots.

**3. *Have the challenged regulations restricted the use of the properties for the claimant?***

**No, the challenged regulations have not restricted the use of either property.**

The first zoning for both properties was Suburban Residential (SR), which was changed to Multiple Use Agriculture-20 (MUA-20) in 1977, and then to Exclusive Farm Use (EFU) in 1980. The zoning has remained Exclusive Farm Use since the 1980 zone change.

The claimants currently own the two vacant lots involved in this Measure 37 request and the adjacent 8.22 acre Tax Lot 400 to the west (Exhibit 1). Although Tax Lot 400 is not involved in this claim, it is relevant because Tax Lot 400 already contains a dwelling constructed in 1982 and therefore disqualifies both Tax Lot 300 and 200 for a new dwelling under the current Exclusive Farm Use Zoning code. Multnomah County Code 36.2675(A)(2) considers all three lots currently owned by the claimant to be aggregated for development purposes into one large lot. This prevents each of the vacant 2.00 acre lots from being recognized as a separate buildable parcel of land. The reason all three lots are considered aggregated into one is because they were all under the same ownership on February 20<sup>th</sup>, 1990 and because neither is larger than 19-acres by itself. The intent of these requirements is to consolidate smaller farm parcels under the same ownership into larger more viable farm operations. As a result, these regulations can have the effect of reducing development potential of vacant parcels.

The zoning regulations in effect when the claimant acquired the properties in 1984 did not allow additional non-farm dwellings on the subject parcels due to aggregation. The current regulations continue to prevent this type of development. Staff finds the challenged regulations have not restricted the use of either lot because the claimants never had the ability to establish a dwelling on either lot since acquisition.

**4. *Have the regulations reduced the fair market value of the properties?***

**No. Land use regulations in effect when the claimant acquired the properties prohibited non-farm dwellings on the lots.**

The claimants assert the value of each lot as buildable is \$200,000 which drops to \$50,000 per lot if considered non-buildable farm land. The claimants conclude that \$150,000 reduction in value has occurred per lot as a result of zoning regulations, making the total reduction estimated at \$300,000 for both lots.

In an attempt to validate this claim, the claimants submitted a comparative market analysis prepared by Helen Crutcher (no firm or title listed) to determine the current market value for the developed 8.22 acres owned by the claimants to the west (Exhibit 6). This report concludes that the recommended listing price between \$297,500 - \$559,900 would be appropriate for the developed property to the west at 4510 SE 302<sup>nd</sup> Avenue also known as Tax Lot 400. It is not clear how this report relates to the two undeveloped properties to the east involved in this measure 37 claim and by itself does not confirm the reduction in value asserted by the claimants for undeveloped Tax Lot 200 and 300.

Staff finds a reduction in value has not occurred because land use regulations in effect when the claimant acquired the properties prohibited non-farm dwellings. In 1984, a request to establish a dwelling on either lot would have been denied because both lots were less than 38-acres and were also considered aggregated into one large lot with developed Tax Lot 400 to the west.

## **PUBLIC NOTICE**

Public notice of this hearing was mailed to all property owners within 750 feet of the subject property. Deliberation and any action on this item will be done following a public hearing at which interested citizens will have an opportunity to testify and provide written comment in accordance with the Board of Commissioners rules of procedure for the hearing.

## **CONCLUSION**

In conclusion, the claimants have failed to establish that they acquired the properties prior to the date the challenged regulations were enacted. No reduction in the fair market value of the property has occurred since no restriction in use has occurred.

Consequently, the Planning staff recommends that the Board of Commissioners deny this claim.

Issued by:

By: \_\_\_\_\_  
Adam Barber, Planner

For: Karen Schilling, Planning Director

Date: March 13, 2007

## **Referenced Exhibits**

Copies of the exhibits, referenced herein, are in the case record that is on file at the Land Use and Transportation Planning Office.

Exhibit 1 – Assessment and Taxation Plat Map of Tax Lot 300 and 200

Exhibit 2 – July 5<sup>th</sup>, 1967 Deeds (Tax Lot 200 - Book 570, Page 504, Tax Lot 300 Book 592, Page 38)

Exhibit 3 – February 23<sup>rd</sup>, 1984 Deed (Book 1728, Page 1535)

Exhibit 4 – Title Report prepared by Steward Title of Oregon, Inc (November 29, 2006)

Exhibit 5 - Ordinance 300, Exclusive Farm Use regulations in effect in 1984

Exhibit 6 – Comparative market analysis for 4510 SE 302 prepared by Helen Crutcher

Exhibit 7 – County Counsel Memo

**Multnomah County Attorney's Office**  
**501 S.E. Hawthorne Blvd., Suite 500**  
**Portland, Oregon 97214**  
**PHONE: (503) 988-3138**  
**FAX: (503) 988-3377**



## **MEMORANDUM**

**To:** Adam Barber  
Multnomah County Planner

**Cc:** Derrick Tokos, Principal Planner  
Chuck Beasley, Planner

**From:** Sandy Duffy  
Assistant County Attorney  
Multnomah County Attorney's Office

**Date:** March 12, 2007

**Re:** Elbridge & Dorothy Hardin, Measure 37 claim  
T1-06-079

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I have reviewed your staff report for legal sufficiency under MCC 27.500 *et. seq.* Your staff report, which recommends denial of the claim, has adequately addressed each required criteria and correctly applied Measure 37 and the county's implementing regulations.

**Script for Hardin; Ingram and Johnson 04/12/07 Measure 37 Hearings**

Thursday, April 12, 2007 - 1:30 PM  
Multnomah Building, First Floor Commissioners Boardroom 100  
501 SE Hawthorne Boulevard, Portland

**REGULAR MEETING - CONTINUED**

***Chair Ted Wheeler reconvenes the meeting at 1:30 p.m., with Commissioners Lonnie Roberts and Jeff Cogen present, and Vice-Chair Maria Rojo de Steffey and Commissioner Lisa Naito excused.***

**INTRODUCTION:**

**Chair:** This is the time set for public hearings on the claims of Elbridge and Dorothy Hardin; Cheryl Ingram and Mark and Suzanne Johnson under Ballot Measure 37. I am Ted Wheeler, Chair of the Multnomah County Board of Commissioners. Also in attendance are Commissioners Jeff Cogen and Lonnie Roberts. Commissioners Maria Rojo and Lisa Naito are excused.

All information relevant to these claims may be submitted and will be considered in these hearings. The evidence may be in any form including oral and written testimony, letters, petitions or other written material, slides, photographs, maps drawings or other items.

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

**DISCLOSURES:**

**Chair:** Board members are required to disclose the content of any *ex parte* contacts. Any Board member who has received any factual information obtained outside the information provided by the county planning staff or this hearing is an *ex parte* contact. A visit to the property is considered an *ex parte* contact. Any *ex parte* contacts should be disclosed at this time. Such disclosures should include the time and date of the visit, what he/she observed, who (if anyone) the Commissioner talked to at the site and any other relevant facts or observations obtained as a result of the site visit.

**Chair:** I have *no ex parte* contacts to disclose regarding any of the claims we are hearing today.

*or if the Chair has disclosures to make*

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

## Script for Hardin; Ingram and Johnson 04/12/07 Measure 37 Hearings

**Chair:** [Invite the other Commissioners to make any necessary disclosures.]  
Commissioner Cogen? Commissioner Roberts? [If there are none, each Commissioner should say "none" on the record.]

[If there are disclosures of *ex parte* contacts, the claimant and the public should be given an opportunity to rebut the substance of any disclosure. "Does anyone have any rebuttal testimony relating to any disclosure?"]

**Chair:** Board members are also required to disclose any conflicts of interest and to recuse themselves from deliberation and voting if a conflict exists. It is deemed a conflict of interest if any Board member, or a member of his/her immediate family or household, has a financial interest in the outcome of a matter before the Board. It is a conflict of interest if a Board member lives within the geographical area entitled to notice of a claim.

**Chair:** Does any Board member, or a member of his/her immediate family or household, have a financial interest in the outcome of any of the claims now before us?

I do [do not] have a financial interest in the outcome of any of these claims. [Invite other commissioners to make any necessary disclosures.] Commissioner Cogen?  
Commissioner Roberts? [If yes, that person must recuse himself/herself on the record.]

Does any Board member live within the geographical area entitled to notice of any of these claims?

I do [do not] live within the geographical area of any of these claims. Commissioner Cogen? Commissioner Roberts?

[Any commissioner who lives within the relevant geographical area of a claim must recuse himself/herself. MCC 7.540]

### CONDUCT OF THE HEARING:

**Chair:** In each of these hearings, I will ask for testimony and other evidence in the following order:

1. Staff report
2. Claimant or claimant's representative
3. Others who wish to be heard on the claim
4. Commission discussion, questions, deliberation
5. Future scheduling if necessary

### HOW TO PRESENT TESTIMONY:

## **Script for Hardin; Ingram and Johnson 04/12/07 Measure 37 Hearings**

**Chair:** There are testimony cards at the back of the room and should be filled out by anyone wishing to testify. The claimants need not fill out a card. The cards should be given to the Board Clerk.

1. State your name and address before you begin your presentation
2. Avoid repetitive testimony
3. During the hearing, I ask those in the audience to refrain from any demonstration in support or opposition to the claim.

**Chair:** Please call the first hearing.

**Board Clerk:**

R-10 Continued Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by Elbridge and Dorothy Hardin for \$300,000 in Compensation or Relief from Regulations to Allow Development of a Single Family Residence on Each of Two Properties Located Adjacent to 4510 SE 302nd Avenue, Troutdale (Case File T1-06-079) [Continued from March 29, 2007]

**Chair:** [Ask for testimony in the order previously stated]

**AT THE CONCLUSION OF THE TESTIMONY:**

**Chair:** [Ask for Board discussion, questions, deliberation, motion and/or future scheduling if necessary]

AFTER DISCUSSION:

Do I have a motion on R-10?

**COMMISSIONER \_\_\_\_\_ MOVES  
COMMISSIONER \_\_\_\_\_ SECONDS  
APPROVAL OF AN Order Granting, with  
Conditions, Ballot Measure 37 Request of  
Elbridge and Dorothy Hardin Relating to  
Two Parcels of Real Property Located on  
S.E. 302nd Avenue, Troutdale, Oregon**

**OPPORTUNITY FOR BOARD COMMENTS**

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

**THE MOTION FAILS  
OR  
THE ORDER IS ADOPTED**

**Script for Hardin; Ingram and Johnson 04/12/07 Measure 37 Hearings**

**Chair:** Please call the next hearing.

**Board Clerk:**

R-11 Public Hearing to consider and possibly act upon a Measure 37 Claim for Cheryl Ingram for up to \$144,000 in compensation or relief from regulations to allow for the development of a single family residence on property located south of SE Orient Drive, Gresham [T1S, R4E, Sec 19D, TL 300] (Case File T1-06-094)

**Chair:** [Ask for testimony in the order previously stated]

**AT THE CONCLUSION OF THE TESTIMONY:**

**Chair:** [Ask for Board discussion, questions, deliberation, motion and/or future scheduling if necessary]

**AFTER DISCUSSION:**

Do I have a motion on R-11?

**COMMISSIONER \_\_\_\_\_ MOVES  
COMMISSIONER \_\_\_\_\_ SECONDS  
APPROVAL OF AN Order Granting, with  
Conditions, Ballot Measure 37 Request of  
Cheryl Ingram Relating to Real Property  
Located South of SE Orient Drive,  
Gresham, Oregon**

**OPPORTUNITY FOR BOARD COMMENTS**

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

**THE MOTION FAILS  
OR  
THE ORDER IS ADOPTED**

**Chair:** Please call the next hearing.

**Board Clerk:**

R-12 Public Hearing to consider and possibly act upon a Measure 37 Claim filed by Mark and Suzanne Johnson for Compensation ranging from \$341,300 - \$344,888 or the right to establish a farm help dwelling on land known as 16032 NW McNamee Road, Portland (Case File T1-06-144)

**Script for Hardin; Ingram and Johnson 04/12/07 Measure 37 Hearings**

**Chair:** [Ask for testimony in the order previously stated]

**AT THE CONCLUSION OF THE TESTIMONY:**

**Chair:** [Ask for Board discussion, questions, deliberation, motion and/or future scheduling if necessary]

**AFTER DISCUSSION:**

Do I have a motion on R-12?

**COMMISSIONER \_\_\_\_\_ MOVES  
COMMISSIONER \_\_\_\_\_ SECONDS  
APPROVAL OF AN Order Granting, with  
Conditions, Ballot Measure 37 Request of  
Mark and Suzanne Johnson Relating to  
parcel of land located at 16032 NW  
McNamee Road, Multnomah County,  
Oregon**

**OPPORTUNITY FOR BOARD COMMENTS**

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

**THE MOTION FAILS  
OR  
THE ORDER IS ADOPTED**

**THERE BEING NO FURTHER BUSINESS, THE MEETING IS  
ADJOURNED.**

# DRAFT

## BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR MULTNOMAH COUNTY, OREGON

ORDER NO. \_\_\_\_\_

Order Granting, with Conditions, Ballot Measure 37 Request of Elbridge and Dorothy Hardin Relating to Two Parcels of Real Property Located on S.E. 302nd Avenue, Troutdale, Oregon

### The Multnomah County Board of Commissioners Finds:

- a. **Parties:** Elbridge and Dorothy Hardin are the Ballot Measure 37 Claimants who filed a demand for compensation to Multnomah County on November 8, 2006.
- b. **Subject Real Property:** This claim relates to real property located on S.E. 302nd Avenue, Troutdale, Multnomah County, Oregon more specifically described as:

Tax Lot 200 and 300, Section 17BB  
Township 1 South, Range 4 East, W.M.  
Acct. # R994170630 (TL 200)  
Acct. # R994170660 (TL 300)

- c. **Adequacy of Demand for Compensation:**

**The materials submitted by the Claimants constitute a complete written demand for compensation as required by Multnomah County Code 27.520.**

On November 8, 2006, the Claimants submitted a Measure 37 Claim Form and a \$1500 deposit to the County in order to process the claim. Upon review of the application, County planning staff (staff) determined that the application lacked certain information required by Multnomah County Code 27.520. Staff prepared a letter listing the outstanding information required to complete the claim and mailed that letter to the Claimant on November 17, 2006. On January 2, 2007, the Claimant submitted a revised title report, clarification that the desired relief is one dwelling on each of the two lots, estimates of value, and evidence of continuous ownership of the lots since July 31, 1973. In addition, on March 28, 2007, the Claimants submitted additional information to support the tenure of ownership asserted in their claim. As a result, this order deviates from the recommendation in the staff report which was drafted prior to the March submittal. These and other materials in the claim record constitute a complete written demand for compensation complying with the County's requirements (MCC 27.520).

The Board finds that the claim materials submitted by the Claimants constitute a complete written demand for compensation as required by Measure 37 and Multnomah County Code 27.530.

- d. **Relevant Dates of Property Ownership:**

**The Claimants have established that they obtained an interest in the property prior to the County's adoption of the land use regulations challenged in this claim.**

# DRAFT

The Claimants transferred the subject property by deed to Katherine Long in 1967. On July 31, 1973, the Claimants entered into an unrecorded conditional contract of sale to repurchase the subject property as evidenced by a \$10,000 contract between the Claimants and Ms. Long which was administered by the First National Bank of Oregon and referenced in the 1984 deed discussed below. Although performance of that contract was completed on July 11, 1977, a warranty deed memorializing the completion of the contract and the transfer of property was not recorded until February 23, 1984. Part performance on a contract for the sale of land is sufficient to establish an ownership interest in such land. The title report submitted by the Claimants indicates that the Claimants have held a continual interest in both properties since the 1984 deed. The foregoing evidence is sufficient to establish that the Claimants acquired an ownership interest in the subject property on July 31, 1973, for purposes of Measure 37, and continuously thereafter.

On July 31, 1973, the subject property was zoned Suburban Residential, which was changed to Multiple Use Agriculture-20 in 1977, and then to Exclusive Farm Use in 1980. The zoning has remained Exclusive Farm Use since the 1980 zone change.

The Board finds that the Claimants' acquisition of the subject property on July 31, 1973, preceded the County's adoption of the land use regulations challenged in this claim.

e. **County Codes as a Restriction on Use of the Property:**

**The Claimants have established that the challenged land use regulations have restricted their use of the property.**

The Claimants have challenged land use regulations that prevent them from constructing two single family dwellings, one on each parcel. They acquired the subject parcels on July 31, 1973 (hereinafter the "acquisition date"). The Suburban Residential (SR) zoning code applied to the subject property on the acquisition date allowed the establishment of single family dwellings as a use. MCC 3.1521, Ord. #100 (1968). The SR imposed standards for property use such as minimum lot size requirements (not triggered here), yard and height standards, availability of water and sanitation services, and street access. MCC 3.153 *et seq.*

Of note, when created in 1967, the subject parcels were land locked and did not have street access. Under the SR code, all lots were required to abut a street or have other access approved by the Planning Commission. MCC 3.1536. Because no approval was obtained, these lots were illegally created. Legalization of the lots through County approval of street access would have to occur in order for any use to be permitted thereon.

By 1980, the subject property was zoned Exclusive Farm Use. The EFU zoning code imposed a 38-acre minimum lot size requirement for the establishment of a single-family dwelling. MCC 11.15.2008 (C). In addition, EFU rules of aggregation treated the subject parcels and a third parcel owned by the Claimants (not at issue in this claim) as one lot of record. MCC 11.15.2018(B). Together, the lot size requirement and aggregation rules operate to prohibit the construction of new non-farm dwellings on either of the subject parcels.

The Board finds that the Claimants have established that the challenged land use regulations have restricted their use of the subject property.

# **DRAFT**

**f. County Code Restrictions Reduce Fair Market Value:**

**The Claimants have established that the challenged land use regulations have reduced the fair market value of the property.**

The documentation submitted by the Claimants does not appraise the subject property as developed versus undeveloped. As such, it is not possible to substantiate the specific dollar amount by which the land use regulations have reduced the fair market value of the subject property. Nevertheless, based on evidence in the record for this claim, some diminution in value of the subject property as a result of the challenged regulations is indicated.

The Board finds that the Claimants have established that the challenged regulations have reduced the fair market value of the subject property.

**g. Public Notice**

Section 3.50 of the County Charter requires notice to the public of all Board agenda matters. This notice was provided. The Claimant and persons who own land within 750 feet of the subject property received notice by mail.

**h. Validity of Claim for Compensation: The Board finds that:**

- (1) The claim materials submitted by the Claimants constitute a complete written demand for compensation as required by Measure 37 and Multnomah County Code 27.530.
- (2) The Claimants' acquisition of the subject property on July 31, 1973, preceded the County's adoption of the land use regulations challenged in this claim.
- (3) The Claimants have established that the challenged land use regulations have restricted their use of the subject property.
- (4) The Claimants have established that the challenged land use regulations have reduced the fair market value of the subject property.

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

- 1. Claimants', Measure 37 claim is granted.**
- 2. The County will not pay the compensation demanded by Claimants**
- 3. In lieu of compensation, County Land Use Planning shall not apply the challenged land use regulations to allow the Claimants to use the property for residential purposes as described in this Order. This action by the Board provides the County's authorization to the claimant to use their property subject to the standards in effect on July 31, 1973.**
- 4. Section 3 above, constitutes a waiver of Comprehensive Plan and Rural Area Plan policies that the regulations implement.**

# DRAFT

**5. The following Conditions of Approval apply to this decision:**

- (a) Section 3 above does not constitute a waiver or modification of corresponding state laws, state administrative rules or metropolitan service district regulations that enforce land use regulations applicable to the property.
- (b) To the extent that any law, order, deed, agreement or other legally enforceable public or private requirement provides that the property may not be used without a permit, license, or other form of authorization or consent, this order does not authorize the use of the property unless the claimants first obtain that permit, license or other form of authorization or consent. Such requirements may include, but are not limited to: a building permit, a land use decision, other permits or authorizations from local, state or federal agencies, and restrictions on the use of the property imposed by private parties.
- (c) Any use of the property by the claimant under the terms of this order remain subject to the following laws or local codes: (a) those in effect on the date of the acquisition of the subject property; (b) any enacted or enforced by a public entity other than the County; and (c) those laws not subject to Measure 37 including, without limitation, those exempted under Section (3) of Measure 37.
- (d) Any rights obtained by a claimant through the Board's grant of a waiver of County land use regulations are transferable only to the extent allowed by law.

ADOPTED this 12th day of April, 2007.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By \_\_\_\_\_  
Jed R. Tomkins, Assistant County Attorney

SUBMITTED BY:  
Agnes Sowle, County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDER NO. 07-058**

Order Granting, with Conditions, Ballot Measure 37 Request of Elbridge and Dorothy Hardin Relating to Two Parcels of Real Property Located on S.E. 302nd Avenue, Troutdale, Oregon

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

a. **Parties:** Elbridge and Dorothy Hardin are the Ballot Measure 37 Claimants who filed a demand for compensation to Multnomah County on November 8, 2006.

b. **Subject Real Property:** This claim relates to real property located on S.E. 302nd Avenue, Troutdale, Multnomah County, Oregon more specifically described as:

Tax Lot 200 and 300, Section 17BB  
Township 1 South, Range 4 East, W.M.  
Acct. # R994170630 (TL 200)  
Acct. # R994170660 (TL 300)

c. **Adequacy of Demand for Compensation:**

**The materials submitted by the Claimants constitute a complete written demand for compensation as required by Multnomah County Code 27.520.**

On November 8, 2006, the Claimants submitted a Measure 37 Claim Form and a \$1500 deposit to the County in order to process the claim. Upon review of the application, County planning staff (staff) determined that the application lacked certain information required by Multnomah County Code 27.520. Staff prepared a letter listing the outstanding information required to complete the claim and mailed that letter to the Claimant on November 17, 2006. On January 2, 2007, the Claimant submitted a revised title report, clarification that the desired relief is one dwelling on each of the two lots, estimates of value, and evidence of continuous ownership of the lots since July 31, 1973. In addition, on March 28, 2007, the Claimants submitted additional information to support the tenure of ownership asserted in their claim. As a result, this order deviates from the recommendation in the staff report which was drafted prior to the March submittal. These and other materials in the claim record constitute a complete written demand for compensation complying with the County's requirements (MCC 27.520).

The Board finds that the claim materials submitted by the Claimants constitute a complete written demand for compensation as required by Measure 37 and Multnomah County Code 27.530.

d. **Relevant Dates of Property Ownership:**

**The Claimants have established that they obtained an interest in the property prior to the County's adoption of the land use regulations challenged in this claim.**

The Claimants transferred the subject property by deed to Katherine Long in 1967. On July 31, 1973, the Claimants entered into an unrecorded conditional contract of sale to repurchase the subject property as evidenced by a \$10,000 contract between the Claimants and Ms. Long which was administered by the First National Bank of Oregon and referenced in the 1984 deed discussed below. Although performance of that contract was completed on July 11, 1977, a warranty deed memorializing the completion of the contract and the transfer of property was not recorded until February 23, 1984. Part performance on a contract for the sale of land is sufficient to establish an ownership interest in such land. The title report submitted by the Claimants indicates that the Claimants have held a continual interest in both properties since the 1984 deed. The foregoing evidence is sufficient to establish that the Claimants acquired an ownership interest in the subject property on July 31, 1973, for purposes of Measure 37, and continuously thereafter.

On July 31, 1973, the subject property was zoned Suburban Residential, which was changed to Multiple Use Agriculture-20 in 1977, and then to Exclusive Farm Use in 1980. The zoning has remained Exclusive Farm Use since the 1980 zone change.

The Board finds that the Claimants' acquisition of the subject property on July 31, 1973, preceded the County's adoption of the land use regulations challenged in this claim.

e. **County Codes as a Restriction on Use of the Property:**

**The Claimants have established that the challenged land use regulations have restricted their use of the property.**

The Claimants have challenged land use regulations that prevent them from constructing two single family dwellings, one on each parcel. They acquired the subject parcels on July 31, 1973 (hereinafter the "acquisition date"). The Suburban Residential (SR) zoning code applied to the subject property on the acquisition date allowed the establishment of single family dwellings as a use. MCC 3.1521, Ord. #100 (1968). The SR imposed standards for property use such as minimum lot size requirements (not triggered here), yard and height standards, availability of water and sanitation services, and street access. MCC 3.153 *et seq.*

Of note, when created in 1967, the subject parcels were land locked and did not have street access. Under the SR code, all lots were required to abut a street or have other access approved by the Planning Commission. MCC 3.1536. Because no approval was obtained, these lots were illegally created. Legalization of the lots through County approval of street access would have to occur in order for any use to be permitted thereon.

By 1980, the subject property was zoned Exclusive Farm Use. The EFU zoning code imposed a 38-acre minimum lot size requirement for the establishment of a single-family dwelling. MCC 11.15.2008 (C). In addition, EFU rules of aggregation treated the subject parcels and a third parcel owned by the Claimants (not at issue in this claim) as one lot of record. MCC 11.15.2018(B). Together, the lot size requirement and aggregation rules operate to prohibit the construction of new non-farm dwellings on either of the subject parcels.

The Board finds that the Claimants have established that the challenged land use regulations have restricted their use of the subject property.

f. **County Code Restrictions Reduce Fair Market Value:**

**The Claimants have established that the challenged land use regulations have reduced the fair market value of the property.**

The documentation submitted by the Claimants does not appraise the subject property as developed versus undeveloped. As such, it is not possible to substantiate the specific dollar amount by which the land use regulations have reduced the fair market value of the subject property. Nevertheless, based on evidence in the record for this claim, some diminution in value of the subject property as a result of the challenged regulations is indicated.

The Board finds that the Claimants have established that the challenged regulations have reduced the fair market value of the subject property.

g. **Public Notice**

Section 3.50 of the County Charter requires notice to the public of all Board agenda matters. This notice was provided. The Claimant and persons who own land within 750 feet of the subject property received notice by mail.

h. **Validity of Claim for Compensation:** The Board finds that:

- (1) The claim materials submitted by the Claimants constitute a complete written demand for compensation as required by Measure 37 and Multnomah County Code 27.530.
- (2) The Claimants' acquisition of the subject property on July 31, 1973, preceded the County's adoption of the land use regulations challenged in this claim.
- (3) The Claimants have established that the challenged land use regulations have restricted their use of the subject property.
- (4) The Claimants have established that the challenged land use regulations have reduced the fair market value of the subject property.

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

1. **Claimants', Measure 37 claim is granted.**
2. **The County will not pay the compensation demanded by Claimants**
3. **In lieu of compensation, County Land Use Planning shall not apply the challenged land use regulations to allow the Claimants to use the property for residential purposes as described in this Order. This action by the Board provides the County's authorization to the claimant to use their property subject to the standards in effect on July 31, 1973.**
4. **Section 3 above, constitutes a waiver of Comprehensive Plan and Rural Area Plan policies that the regulations implement.**

5. The following Conditions of Approval apply to this decision:

- (a) Section 3 above does not constitute a waiver or modification of corresponding state laws, state administrative rules or metropolitan service district regulations that enforce land use regulations applicable to the property.
- (b) To the extent that any law, order, deed, agreement or other legally enforceable public or private requirement provides that the property may not be used without a permit, license, or other form of authorization or consent, this order does not authorize the use of the property unless the claimants first obtain that permit, license or other form of authorization or consent. Such requirements may include, but are not limited to: a building permit, a land use decision, other permits or authorizations from local, state or federal agencies, and restrictions on the use of the property imposed by private parties.
- (c) Any use of the property by the claimant under the terms of this order remain subject to the following laws or local codes: (a) those in effect on the date of the acquisition of the subject property; (b) any enacted or enforced by a public entity other than the County; and (c) those laws not subject to Measure 37 including, without limitation, those exempted under Section (3) of Measure 37.
- (d) Any rights obtained by a claimant through the Board's grant of a waiver of County land use regulations are transferable only to the extent allowed by law.

ADOPTED this 12th day of April, 2007.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Jed R. Tomkins, Assistant County Attorney

SUBMITTED BY:

Agnes Sowle, County Attorney



**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST (short form)**

**Board Clerk Use Only**

Meeting Date: 04/12/07  
 Agenda Item #: R-11  
 Est. Start Time: 1:40 PM  
 Date Submitted: 03/29/07

**Agenda Title: Public Hearing to consider and possibly act upon a Measure 37 Claim for Cheryl Ingram for up to \$144,000 in compensation or relief from regulations to allow for the development of a single family residence on property located south of SE Orient Drive. [T1S, R4E, Sec 19D, TL 300] (Case File T1-06-094)**

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

**Requested Meeting Date:** April 12, 2007      **Amount of Time Needed:** 20 minutes  
**Department:** Community Services      **Division:** Land Use & Transportation  
**Contact(s):** Derrick Tokos, Ken Born, Sandra Duffy  
**Phone:** 503-988-3043      **Ext.** 29397      **I/O Address:** 455/116  
**Presenter(s):** Ken Born, Sandra Duffy

**General Information**

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

Action requested is to provide a public hearing and render a decision regarding a Measure 37 claim by Cheryl Ingram to waive land use regulations which prohibit the development of a single family dwelling on property located south of SE Orient Drive. Land use planning has outlined an approach to deciding this claim in a staff report dated March 27, 2007.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

For a claim to be valid, the land use regulations challenged must restrict the claimants use of private real property in a manner that reduces the fair market value of the property relative to how the property could have been used at the time the claimants acquired the property. As outlined in the staff report dated March 27, 2007, and memorandum from the County Attorney's Office, this requirement has been met.

The claimant, Cheryl Ingram, is seeking \$144,000 in compensation or relief from land use regulations to allow the 1.55 acre property to be developed with a single family dwelling. She

acquired an interest in the property on June 15, 1978. County zoning for the property in 1978 was Multiple Use Agriculture-20 (MUA-20).

The MUA-20 zoning in effect when the claimant acquired the property allowed for a single family dwelling constructed on a lot as a "Primary Use," meaning a new home could be constructed as of right (§3.133.1, Ord. #148). Current Exclusive Farm Use (EFU) zoning regulations require proof of a certain level of farm income related to the property in order to establish a new primary farm dwelling on vacant land. The threshold for properties consisting of high value soils is \$80,000 gross annual income from the sale of farm products grown on a subject tract in the last two years, or for three of the last five years.

The use the claimant asserts has been restricted is her ability to develop a single family dwelling. The MUA-20 zone in effect at the time the claimant purchased the property allowed one house per lot as of right. The claimant has established that land use regulations enacted after she acquired the subject property have prevented her from building a home.

Staff recommends the Board of Commissioners find this to be a valid claim.

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

The claimants assert a reduction in value of \$144,000. An appraisal provided by the claimant does establish that the above listed regulations have reduced the fair market value of the identified property. Additional appraisal work is needed should the Board prefer compensation as an alternative to regulatory relief.

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

Policy and legal issues are outlined in a staff report from Land Use Planning dated March 27, 2007. The County Attorney has advised that any property rights obtained by relief from land use regulations are not transferable under Ballot Measure 37, consistent with the DOJ opinion of February 2005.

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

Public notice of this hearing has been mailed to all property owners within 750 feet of the subject property, and the claimant. Deliberation and any action on this item will be done following a public hearing at which interested citizens will have an opportunity to testify and provide written comment in accordance with the Board of Commissioners rules of procedure for the hearing.

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**Required Signature**

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**Elected Official or  
Department/  
Agency Director:**



**Date:** 03/29/07

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**LAND USE & TRANSPORTATION  
PLANNING PROGRAM**  
1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233  
PH: 503-988-3043 FAX: 503-988-3389  
<http://www.co.multnomah.or.us/landuse>

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## Staff Analysis of Measure 37 Claim

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The following matter is scheduled for public hearing, deliberation and possible action before the Multnomah County Board of Commissioners

Hearing Date, Time, & Place:

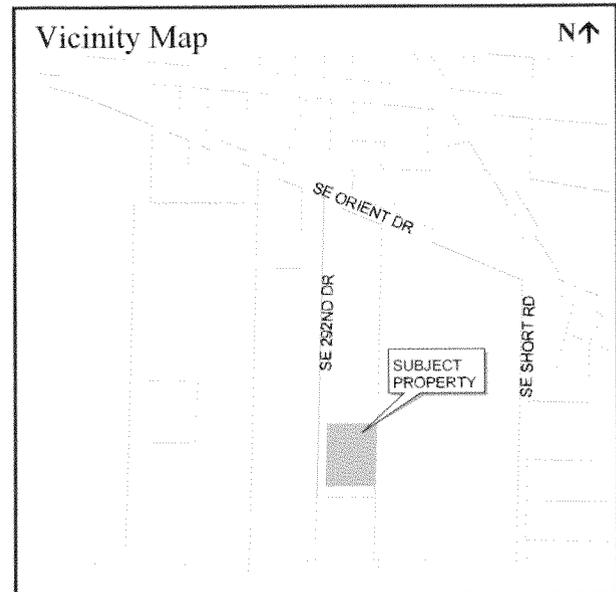
**Thursday, April 12, 2007 at 1:30 PM** or soon thereafter, in the Commissioners' Board Room of the Multnomah Building, located at 501 SE Hawthorne, Portland, Oregon.

**Case File:** T1-06-094

**Claimant:** Cheryl Ingram

**Location:** No Situs Address  
South of SE Orient Drive  
Gresham, OR 97080  
R197100110

Tax Lot 300, Section 19D,  
Township 1S, Range 4E, W.M.



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**Claim:** Up to \$144,000 in compensation or relief from land use regulations to allow for the construction of a single family dwelling in the Exclusive Farm Use (EFU) zone district.

**Zoning:** Exclusive Farm Use (EFU)

**Site Size:** 1.55 acres

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### Approach to Deciding the Claim:

Cheryl Ingram (claimant) acquired an interest in the subject property on June 15, 1978. The claimant has indicated that the challenged regulations enacted after she acquired the property have prevented her from building a single family dwelling. Our analysis confirms that current land use regulations prohibit the construction of a dwelling on her property. The claimant's appraisal is adequate to show that some of the challenged regulations have reduced the property's value. Consequently, the Board must either:

- a. Pay compensation equal to the reduction in fair market value of the property attributed to the challenged regulations which restrict claimants' use of their property; **or**.
- b. Not apply challenged regulations to allow the claimant to construct a dwelling on the property.

## Staff Analysis

*(The following is a step-by-step evaluation of the claim, which consists of the application materials submitted by the claimant. The analysis is structured as a series of questions that must be answered to establish if a claim is valid, comparable to the methodology outlined in a February 24, 2005 memo authored by the State Attorney General's Office.)*

### **1. Has the owner made a complete written demand under Ballot Measure 37?**

**Yes. The materials submitted by the claimant constitute a complete "written demand for compensation" within the meaning of the measure.**

On November 22, 2006, the claimant submitted a completed Measure 37 Claim Form (Exhibit A.1); a Measure 37 Lot Book Service prepared by First American Title Insurance Company of Oregon (Exhibit A.3); deed information which provides proof of first ownership (Exhibit A.6); a copy of the adopted County land use ordinance when the claimant acquired the subject property (Exhibit A.7); an appraisal report prepared by Norwest Appraisal (Exhibit A.5); and a \$1500 deposit to the County in order to process the claim.

In response to an incomplete letter sent to the claimant by County staff, additional title information was submitted (Exhibit A.4). This and other materials in the claim record constitute a complete written demand for compensation complying with the county's requirements (MCC 27.520).

### **2. Did the claimant acquire the property before the laws in question were adopted?**

**Yes. The Claimant obtained an interest in the property on June 15, 1978 (Exhibit A.6) prior to the county adopting the challenged regulations set out in the claim.**

The zoning designation applied to the property was known as Multiple Use Agriculture-20 (MUA-20). A copy of the zoning map is included as Exhibit B.1. A copy of the corresponding MUA-20 regulations is also presented as Exhibit A.7. In 1978, the objective of the MUA-20 zone was to conserve agricultural lands not suited to full-time commercial farming, and to encourage the use of MUA-20 lands for other purposes such as forestry, outdoor recreation, open space, and low density residential uses (§3.131, Ord. #148). The minimum lot size in this district was 20 acres (§3.134, Ord. #148).

The zoning changed from MUA-20 to Exclusive Farm Use (EFU) on August 14, 1980. The EFU regulations challenged by claimant were last amended on December 12, 2002.

A deed submitted by the claimant (Exhibit A.6), shows that she acquired the property on June 15, 1978. County assessment records identify the claimant as the current owner of the property. These documents, the title report, and other information provided by the claimant show continual ownership since 1978 and are sufficient to establish that she acquired an interest in the property prior to the county adopting the EFU regulations.

### **3. Have the challenged regulations restricted the use of the property?**

**Yes. Some of the challenged regulations have restricted the use of the property by prohibiting the construction of a dwelling.**

The MUA-20 zoning in effect when the claimant acquired the property allowed for a single family dwelling constructed on a lot as a "Primary Use," meaning a new home could be constructed as of right (§3.133.1, Ord. #148). The property is presently zoned Exclusive Farm Use (EFU). A copy of the current regulations and zoning map are included as Exhibit A.8 and B.1. The EFU regulations contain specific standards for qualifying a dwelling that are more restrictive than the MUA-20 requirements, and have the effect of preventing a dwelling from being constructed on the property.

The following are the specific EFU regulations which would prevent the establishment of a dwelling on the property. These regulations and the Comprehensive Plan policies they implement, would need to be set aside should the Board choose to not apply regulations in lieu of compensation:

- ***MCC 36.2675(A) – EFU Lot of Record Aggregation Requirements***

The current Exclusive Farm Use Lot of Record aggregation regulations require that contiguous properties less than 19-acres be aggregated together for residential development requests if the contiguous properties were under common ownership on February 20, 1990. According to deed records, the claimant owns two contiguous lots under common ownership (Tax Lot 300 and 500) on this date and are less than 19-acres together. As a result of the Exclusive Farm Use Lot of Record aggregation requirements, the claimant's two properties are considered aggregated together into one for development purposes, and cannot be viewed as separate lots for a new residential development review under the current regulations.

Lot of Record aggregation requirements were first applied to the properties in 1980, two years after acquisition, with the adoption of the EFU zoning code. These regulations prevent the establishment of a primary farm related dwelling on undeveloped Tax Lot 300 because Tax Lot 500 currently contains a home and the two are considered aggregated into one Lot of Record not eligible for another home. In summary, Staff finds these regulations prohibit approval of a primary dwelling on undeveloped Tax Lot 300 and therefore restrict the use of that lot.

- ***MCC 36.2610 – Definition of Tract***

A 'Tract' is defined by MCC 36.2610 as one or more contiguous lots or parcels in the same ownership. The tract definition should be waived if the Lot of Record aggregation requirements are waived in order to separate contiguous lots 300 and 500 for a new development request. Under current regulations, both tax lots are considered to not only be one Lot of Record but also one Tract.

- ***MCC 36.2625(D)(I) – Farm Income Test for Establishing a Farm Dwelling on High Value Farmland Soils***

This regulation requires proof of a certain level of farm income related to the property in order to establish a new primary farm dwelling on vacant land. The threshold for properties consisting of high value soils is \$80,000 gross annual income from the sale of farm products grown on a subject tract in the last two years, or for three of the last five years.

Although the subject property consists of high value Powell silt loam (Unit 34A)<sup>1</sup>, it is only 1.55 acres in size and is unlikely to be able to produce enough agricultural yield to meet the \$80,000 farm income test.

According to statistics published jointly by the Oregon Agricultural Statistics Service and Oregon State University Extension Service in 2001, the 1999 gross sales in Multnomah County averaged \$11,079 per acre for nursery and greenhouse operations. Of Oregon's top 40 commodities for 2000, greenhouse and nursery products ranked number one in dollar value and were estimated to have constituted over half of the total sales of farm products in the county. This provides a reasonable high end farm related income projection for an acre of farm land<sup>2</sup>. This \$11,079 estimate provides further support that the 1.55 acre subject property is most likely too small to meet the \$80,000 farm income regulation required to establish a primary farm dwelling. In fact, the average farm size in Multnomah County is 48-acres<sup>3</sup> making the 1.55 acre subject property quite small in comparison.

- *MCC 36.2625(F) – Heritage Tract Dwelling Allowed on Land Not Identified as High-Value Farmland.*

This regulation requires the subject tract to not be identified as high-value farmland in order to qualify for a new single family home. As referenced above, soils on the property consist of high value Powell silt loam soils (Unit 34A).

Statewide Planning Goals were effective January 25, 1975, prior to the date the claimant acquired the property. Standards for farm and non-farm dwellings in Exclusive Farm zones were also codified in state law prior to 1975. This property is one of a group of parcels where the "exception" zoning proposed by the County was never acknowledged by LCDC, and the County was required to re-zone it to EFU in order to gain acknowledgement. While the County had not yet implemented these rules, the state has taken the position they are nonetheless applicable and that local jurisdictions must require claimants meet them (Exhibit B.4). We anticipate the state will take a similar position with this claim. This may impact the claimant's ability to construct a dwelling on the property should the Board grant regulatory relief.

#### ***4. Have the regulations reduced the fair market value of the properties?***

**Yes. The appraisal provided by the claimant is sufficient to establish that the listed regulations have reduced the value of the property.**

The zoning of the lot was MUA-20 when the claimant acquired the property as previously discussed. This zone district allowed for a "*Single family dwelling constructed on a lot.*"

The claimant has submitted an appraisal, drafted by a state certified appraiser, which assesses the current value of the property with and without the right to build a home (Exhibit A.5). The

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<sup>1</sup> (1983) Soil Survey of Multnomah County, United States Department of Agriculture & Soil Conservation Service.

<sup>2</sup> (2001) Oregon Agricultural Statistics and Oregon State University Extension Service, Oregon Agriculture: Facts and Figures.

<sup>3</sup> (2002) USDA census data.

estimated difference between the current "as-is" value, and the value of Tax Lot 300 if buildable, is \$144,000.

The appraisal also contains a comparable market analysis. The analysis contains data on recent sales made within the last 13 months of four properties within a five mile vicinity of the subject property. The dataset contains location information, physical data, sales prices, and information of improvements located onsite. While this information is not sufficient to establish a dollar amount for compensation, it is adequate to establish that property which is eligible for the construction of a dwelling is valued more highly than property which is not eligible for the construction of a dwelling.<sup>4</sup>

Bob Alcantara, Senior Appraisal Supervisor with the Multnomah County Division of Assessment and Taxation also provided his department's interpretation on the reduction of value issue for this claim (Exhibit D.1):

The claim asks for compensation of up to \$144,000 or relief from current land use regulations to allow for construction of a single family dwelling in the EFU zone. In my opinion if the site was buildable it would have a real market value of \$220,000. As an unbuildable parcel with its highest and best use as farmland its real market value would be \$15,000.

A copy of current assessment data is included as Exhibit B.3.

**5. *Have those regulations that reduce the fair market value of the property been enforced?***

**Yes. The plain language of the Exclusive Farm Use (EFU) zoning district prohibits the construction of a primary dwelling on the property.**

Land use regulations enacted after the date the owner acquires the property must be enforced for the measure to be operative. The Exclusive Farm Use (EFU) zoning rules effectively prohibit the construction of a primary dwelling on the subject lot, reducing the value of the property. On their face these regulations have been enforced.

**Public Comment**

**After a claim for compensation is declared complete pursuant to MCC 27.520(B), the Director shall mail notice of the claim to the claimant, other owners of record of the property, and all owners of property within 750 feet of the subject property. Additional mail notice shall be sent to any public entities with land use regulatory authority over the property and other organizations or persons as the Director may designate (MCC 27.530(A)).**

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<sup>4</sup> The appraisal assumes the ability to develop the lots is transferable by sale which contradicts the Attorney General's opinion on transferability. Also, the appraisal looks only at the current market value of the property and comparable properties. It does not look at the impact of the regulations at the time they were imposed. The land use regulations challenged in this claim have constrained the supply of developable properties in this area, the result of which may impact land values of the remaining developable properties in a positive manner [(2006) Jaeger, W., The effects of Land-Use Regulations on Property Values, Environmental Law (VOL 36) Pages 105-130]. That impact on the value is not considered in the analysis.

Pursuant to the provisions of MCC 27.530, a 14-day Opportunity to Comment packet was mailed on March 8, 2007. No comments were received. Public notice of this hearing was mailed to all property owners within 750 feet of the subject property. Deliberation and any action on this item will be done following a public hearing at which interested citizens will have an opportunity to testify and provide written comment in accordance with the Board of Commissioners rules of procedure for the hearing.

### **Conclusion**

Considering the above findings, Cheryl Ingram has established that county land use regulations enacted after she acquired the property have prevented her from building a home. Should the Board choose regulatory relief in lieu of compensation, the Board would need to grant the request to not apply the following regulations:

- *MCC 36.2675(A) – EFU Lot of Record Aggregation Requirements*
- *MCC 36.2610 – Definition of Tract*
- *MCC 36.2625(D)(1) – Farm Income Test for Establishing a Farm Dwelling on High Value Farmland Soils*
- *MCC 36.2625(F) – Heritage Tract Dwelling Allowed on Land Not Identified as High-Value Farmland.*

The appraisal and comparable market analysis provided by the claimant establishes that the above listed regulations have reduced the fair market value of the identified property.

If the Board of Commissioners chooses to not apply the regulations listed, Land Use Planning would recommend that the Board of Commissioners address the following in the Board Order:

1. Include a statement that any waiver or modification of the county land use regulations does not constitute a waiver or modification of corresponding state laws, or administrative rules. Before any building permits may be issued, an authorization from the state must be secured.
2. Note that waiver of the listed regulations also constitutes a waiver of Comprehensive Plan and Rural Area Plan policies that the rules implement.
3. Action by the Board of Commissioners to not apply regulations does not authorize immediate construction of the dwellings. Rules that still apply require that land use and building permits be approved by the County before development can proceed.
4. Include a statement that the statewide Planning Goals were effective January 25, 1975, prior to the date the claimant acquired the property. Standards for farm and non-farm dwellings in Exclusive Farm zones were also codified in state law prior to 1975. While the County had not yet implemented these rules, the state has taken the position they are nonetheless applicable and that local jurisdictions must require claimants meet them (Exhibit B.4). The County anticipates the state will take a similar position with this claim. This may impact the claimant's ability to construct a dwelling on the property.

5. Include a statement that any right obtained by a claimant through the Board's grant of a waiver of County land use regulations is transferable only to the extent allowed by law.

Issued by:

By: Kenneth Born, AICP, Planner

For: Karen Schilling- Planning Director

Date: March 27, 2007

**Exhibits**

Copies of the exhibits, referenced herein, and all other materials submitted to the County related to this claim are included in the case record that is on file at the Land Use and Transportation Planning Office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Signed Measure 37 Application Form	11/22/06
A.2	2	Claim Narrative	11/22/06
A.3	6	Measure 37 Lot Book Service	11/22/06
A.4	3	Supplemental Measure 37 Lot Book Service	12/27/06
A.5	29	Complete Summary Appraisal Report by Todd Cooper, Norwest Appraisal	11/22/06
A.6	4	Deeds and Encumbrances a. Real Estate Contract recorded June 15, 1978 between Floyd and Myrtle Darrin, and Michael and Cheryl Carlson b. Warranty Deed recorded September 11, 1980 from Floyd and Myrtle Darrin to Michael and Cheryl Carlson c. Declaration of Deed Restrictions Affecting "Dar-Mil Estates"	11/22/06
A.7	6	Multnomah County Zoning Ordinance, September 6, 1977 (MUA-20 zone)	11/22/06
A.8	10	Current Zoning Ordinance (EFU zone)	11/22/06
'B'		Staff Exhibits	Date
B.1	1	Zoning Map in Effect on June 15, 1978	N/A
B.2	1	Current Zoning Map	N/A
B.3	1	Assessment and Taxation Property Information	N/A
B.4	1	Letter re. Stafford, County Order No. 06-123 (State Department of Land Conservation and Development)	11/08/06
'C'		Administration & Procedures	Date
C.1	2	Incomplete Letter	08/14/06
C.2	1	Complete Letter – Day 1	03/08/07
C.3	2	Opportunity to Comment	03/08/07
'D'		Comments Received	Date
D.1	1	Memorandum: Multnomah County Division of Assessment and Taxation, Bob Alcantara	03/21/07

D.2	1	Memorandum: Multnomah County Attorney's Office, Jed Tomkins	03/27/07
D.3	1	Memorandum: Multnomah County Transportation Division, Alison Winter	3/15/07

**Multnomah County Attorney's Office**  
**501 S.E. Hawthorne Blvd., Suite 500**  
**Portland, Oregon 97214**  
**PHONE: (503) 988-3138**  
**FAX: (503) 988-3377**



## **MEMORANDUM**

**To:** Ken Born  
Multnomah County

**CC:** Derrick Tokos  
Principal Planner, Multnomah County

**From:** Jed R. Tomkins  
Assistant County Attorney  
Multnomah County Attorney's Office

**Date:** March 27, 2007

**Re:** Cheryl Ingram, Ballot Measure 37 Claim T1-06-094

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I have reviewed your staff report for legal sufficiency under MCC 27.500 *et. seq.* Your staff report has adequately addressed each required criteria and correctly applied Measure 37 and the county's implementing regulations.

## Script for Hardin; Ingram and Johnson 04/12/07 Measure 37 Hearings

Thursday, April 12, 2007 - 1:30 PM  
Multnomah Building, First Floor Commissioners Boardroom 100  
501 SE Hawthorne Boulevard, Portland

### REGULAR MEETING - CONTINUED

***Chair Ted Wheeler reconvenes the meeting at 1:30 p.m., with Commissioners Lonnie Roberts and Jeff Cogen present, and Vice-Chair Maria Rojo de Steffey and Commissioner Lisa Naito excused.***

#### **INTRODUCTION:**

**Chair:** This is the time set for public hearings on the claims of Elbridge and Dorothy Hardin; Cheryl Ingram and Mark and Suzanne Johnson under Ballot Measure 37. I am Ted Wheeler, Chair of the Multnomah County Board of Commissioners. Also in attendance are Commissioners Jeff Cogen and Lonnie Roberts. Commissioners Maria Rojo and Lisa Naito are excused.

All information relevant to these claims may be submitted and will be considered in these hearings. The evidence may be in any form including oral and written testimony, letters, petitions or other written material, slides, photographs, maps drawings or other items.

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

#### **DISCLOSURES:**

**Chair:** Board members are required to disclose the content of any *ex parte* contacts. Any Board member who has received any factual information obtained outside the information provided by the county planning staff or this hearing is an *ex parte* contact. A visit to the property is considered an *ex parte* contact. Any *ex parte* contacts should be disclosed at this time. Such disclosures should include the time and date of the visit, what he/she observed, who (if anyone) the Commissioner talked to at the site and any other relevant facts or observations obtained as a result of the site visit.

**Chair:** I have *no ex parte* contacts to disclose regarding any of the claims we are hearing today.

*or if the Chair has disclosures to make*

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

## Script for Hardin; Ingram and Johnson 04/12/07 Measure 37 Hearings

**Chair:** [Invite the other Commissioners to make any necessary disclosures.]  
Commissioner Cogen? Commissioner Roberts? [If there are none, each Commissioner should say “none” on the record.]

[If there are disclosures of *ex parte* contacts, the claimant and the public should be given an opportunity to rebut the substance of any disclosure. “Does anyone have any rebuttal testimony relating to any disclosure?”]

**Chair:** Board members are also required to disclose any conflicts of interest and to recuse themselves from deliberation and voting if a conflict exists. It is deemed a conflict of interest if any Board member, or a member of his/her immediate family or household, has a financial interest in the outcome of a matter before the Board. It is a conflict of interest if a Board member lives within the geographical area entitled to notice of a claim.

**Chair:** Does any Board member, or a member of his/her immediate family or household, have a financial interest in the outcome of any of the claims now before us?

I do [do not] have a financial interest in the outcome of any of these claims. [Invite other commissioners to make any necessary disclosures.] Commissioner Cogen?  
Commissioner Roberts? [If yes, that person must recuse himself/herself on the record.]

Does any Board member live within the geographical area entitled to notice of any of these claims?

I do [do not] live within the geographical area of any of these claims. Commissioner Cogen? Commissioner Roberts?

[Any commissioner who lives within the relevant geographical area of a claim must recuse himself/herself. MCC 7.540]

### CONDUCT OF THE HEARING:

**Chair:** In each of these hearings, I will ask for testimony and other evidence in the following order:

1. Staff report
2. Claimant or claimant’s representative
3. Others who wish to be heard on the claim
4. Commission discussion, questions, deliberation
5. Future scheduling if necessary

### HOW TO PRESENT TESTIMONY:

## Script for Hardin; Ingram and Johnson 04/12/07 Measure 37 Hearings

**Chair:** There are testimony cards at the back of the room and should be filled out by anyone wishing to testify. The claimants need not fill out a card. The cards should be given to the Board Clerk.

1. State your name and address before you begin your presentation
2. Avoid repetitive testimony
3. During the hearing, I ask those in the audience to refrain from any demonstration in support or opposition to the claim.

**Chair:** Please call the first hearing.

**Board Clerk:**

R-10 Continued Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by Elbridge and Dorothy Hardin for \$300,000 in Compensation or Relief from Regulations to Allow Development of a Single Family Residence on Each of Two Properties Located Adjacent to 4510 SE 302nd Avenue, Troutdale (Case File T1-06-079) [Continued from March 29, 2007]

**Chair:** [Ask for testimony in the order previously stated]

**AT THE CONCLUSION OF THE TESTIMONY:**

**Chair:** [Ask for Board discussion, questions, deliberation, motion and/or future scheduling if necessary]

AFTER DISCUSSION:

Do I have a motion on R-10?

**COMMISSIONER \_\_\_\_\_ MOVES  
COMMISSIONER \_\_\_\_\_ SECONDS  
APPROVAL OF AN Order Granting, with  
Conditions, Ballot Measure 37 Request of  
Elbridge and Dorothy Hardin Relating to  
Two Parcels of Real Property Located on  
S.E. 302nd Avenue, Troutdale, Oregon**

**OPPORTUNITY FOR BOARD COMMENTS**

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

**THE MOTION FAILS  
OR  
THE ORDER IS ADOPTED**

**Script for Hardin; Ingram and Johnson 04/12/07 Measure 37 Hearings**

**Chair:** Please call the next hearing.

**Board Clerk:**

R-11 Public Hearing to consider and possibly act upon a Measure 37 Claim for Cheryl Ingram for up to \$144,000 in compensation or relief from regulations to allow for the development of a single family residence on property located south of SE Orient Drive, Gresham [T1S, R4E, Sec 19D, TL 300] (Case File T1-06-094)

**Chair:** [Ask for testimony in the order previously stated]

**AT THE CONCLUSION OF THE TESTIMONY:**

**Chair:** [Ask for Board discussion, questions, deliberation, motion and/or future scheduling if necessary]

**AFTER DISCUSSION:**

Do I have a motion on R-11?

**COMMISSIONER \_\_\_\_\_ MOVES  
COMMISSIONER \_\_\_\_\_ SECONDS  
APPROVAL OF AN Order Granting, with  
Conditions, Ballot Measure 37 Request of  
Cheryl Ingram Relating to Real Property  
Located South of SE Orient Drive,  
Gresham, Oregon**

**OPPORTUNITY FOR BOARD COMMENTS**

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

**THE MOTION FAILS  
OR  
THE ORDER IS ADOPTED**

**Chair:** Please call the next hearing.

**Board Clerk:**

R-12 Public Hearing to consider and possibly act upon a Measure 37 Claim filed by Mark and Suzanne Johnson for Compensation ranging from \$341,300 - \$344,888 or the right to establish a farm help dwelling on land known as 16032 NW McNamee Road, Portland (Case File T1-06-144)

**Script for Hardin; Ingram and Johnson 04/12/07 Measure 37 Hearings**

**Chair:** [Ask for testimony in the order previously stated]

**AT THE CONCLUSION OF THE TESTIMONY:**

**Chair:** [Ask for Board discussion, questions, deliberation, motion and/or future scheduling if necessary]

**AFTER DISCUSSION:**

Do I have a motion on R-12?

**COMMISSIONER \_\_\_\_\_ MOVES  
COMMISSIONER \_\_\_\_\_ SECONDS  
APPROVAL OF AN Order Granting, with  
Conditions, Ballot Measure 37 Request of  
Mark and Suzanne Johnson Relating to  
parcel of land located at 16032 NW  
McNamee Road, Multnomah County,  
Oregon**

**OPPORTUNITY FOR BOARD COMMENTS**

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

**THE MOTION FAILS  
OR  
THE ORDER IS ADOPTED**

**THERE BEING NO FURTHER BUSINESS, THE MEETING IS  
ADJOURNED.**

# DRAFT

## BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR MULTNOMAH COUNTY, OREGON

ORDER NO. \_\_\_\_\_

Order Granting, with Conditions, Ballot Measure 37 Request of Cheryl Ingram Relating to Real Property Located South of SE Orient Drive, Gresham, Oregon

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

- a. **Party:** Cheryl Ingram is a Ballot Measure 37 claimant who filed a demand for compensation to Multnomah County (county) on November 22, 2006.
- b. **Subject Real Property:** This claim relates to property located South of SE Orient Drive, Gresham, Oregon more specifically described as:

Tax Lot 300, Section 19D,  
Township 1S, Range 4E, W.M.  
Acct # R197100110,

- c. **Adequacy of Demand for Compensation (Complete Application):**

**The materials submitted by the Claimant constitute a complete written demand for compensation as required by Multnomah County Code 27.520.**

On November 22, 2006, the claimant submitted a completed Measure 37 Claim Form; a Measure 37 Lot Book Service prepared by First American Title Insurance Company of Oregon; deed information which provides proof of first ownership; a copy of the adopted county land use ordinance when the claimant acquired the subject property; an appraisal report prepared by Norwest Appraisal; and a \$1500 deposit to the county in order to process the claim. Subsequently, the claimant submitted additional title information. This and other materials in the claim record constitute a complete written demand for compensation complying with the county's requirements. MCC 27.520.

The Board finds that the claim materials submitted by the Claimants constitute a complete written demand for compensation as required by Measure 37 and Multnomah County Code 27.530.

- d. **Relevant Dates of Property Ownership:**

**The Claimant has established that she obtained an interest in the property prior to the County's adoption of the land use regulations challenged in this claim.**

A deed submitted by the claimant shows that she acquired the property on June 15, 1978, and a Lot Book report, along with County assessment records identify the Claimant as the continuous and current owner of the subject property. This evidence is sufficient to establish that the Claimant acquired the property on June 15, 1978, and has held continuous ownership thereof ever since.

# DRAFT

The subject property was zoned Multiple Use Agriculture-20 acre minimum (MUA-20) on the date the Claimant acquired the property. The zoning changed from MUA-20 to Exclusive Farm Use (EFU) on August 14, 1980, and has remained in EFU ever since. The Claimant challenges the EFU regulations.

The Board finds that the Claimant's acquisition of the subject property on June 15, 1978, preceded the County's adoption of the land use regulations challenged in this claim.

e. **County Codes as a Restriction on Use of the Property:**

**The Claimant has established that the challenged land use regulations have restricted her use of the property.**

The MUA-20 zoning in effect when the claimant acquired the property allowed for a single family dwelling constructed on a lot as a "Primary Use," meaning a new home could be constructed as of right. MCC 3.133.1, Ord. #148 (1978). The MUA-20 imposed standards for property use such as minimum lot size (not triggered here) and parking and access requirements. MCC 3.133 *et seq.*

The EFU zoning code applicable to the subject property in 1980 and ever since contains specific standards for qualifying a dwelling that are more restrictive than the MUA-20 requirements and have the effect of preventing a dwelling from being constructed on the subject property. The Land Use Planning staff report prepared in this claim highlights certain of these restrictions.

In addition to county regulations, Statewide Planning Goals were effective January 1, 1975, prior to the date the claimant acquired the property. Standards for farm and non-farm dwellings in Exclusive Farm zones were also codified in state law prior to 1975. While the county had not yet implemented these rules at the time the claimant acquired the property, the state has taken the position that they are nonetheless applicable and that local jurisdictions must require claimants meet them. We anticipate the state will take a similar position with this claim. This may impact the claimant's ability to construct a dwelling on the property should the Board grant regulatory relief.

The Board finds that the Claimant has established that the challenged land use regulations have restricted her use of the subject property.

f. **County Code Restrictions Reduce Fair Market Value:**

**The Claimant has established that the challenged land use regulations have reduced the fair market value of the property.**

The claimant has submitted an appraisal, drafted by a state certified appraiser, which assesses the current value of the property with and without the right to build a home. The estimated difference between the current "as-is" value, and the value of Tax Lot 300 if buildable, is \$144,000.

## **DRAFT**

The Claimant's appraisal also contains a comparable market analysis. This information is sufficient to establish that the subject property would have greater value if eligible for the construction of a dwelling than if it was not so eligible. This principle was confirmed by the Multnomah County Division of Assessment and Taxation.

The Board finds that the Claimant has established that the challenged land use regulations have reduced the fair market value of the subject property.

**g. Public Notice**

Section 3.50 of the County Charter requires notice to the public of all Board agenda matters. This notice was provided. The Claimant and persons who own land within 750 feet of the subject property received notice by mail.

**h. Validity of Claim for Compensation:** The Board finds that:

- (1) The claim materials submitted by the Claimants constitute a complete written demand for compensation as required by Measure 37 and Multnomah County Code 27.530.
- (2) The Claimant's acquisition of the subject property on June 15, 1978, preceded the County's adoption of the land use regulations challenged in this claim.
- (3) The Claimant has established that the challenged land use regulations have restricted her use of the subject property.
- (4) The Claimant has established that the challenged land use regulations have reduced the fair market value of the subject property.

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

- 1. Claimants', Measure 37 claim is granted.**
- 2. The County will not pay the compensation demanded by Claimants**
- 3. In lieu of compensation, County Land Use Planning shall not apply the challenged land use regulations to allow the Claimants to use the property for residential purposes as described in this Order. This action by the Board provides the County's authorization to the claimant to use their property subject to the standards in effect on June 15, 1978.**
- 4. Section 3 above, constitutes a waiver of Comprehensive Plan and Rural Area Plan policies that the regulations implement.**

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**5. The following Conditions of Approval apply to this decision:**

- (a) Section 3 above does not constitute a waiver or modification of corresponding state laws, state administrative rules or metropolitan service district regulations that enforce land use regulations applicable to the property.
- (b) To the extent that any law, order, deed, agreement or other legally enforceable public or private requirement provides that the property may not be used without a permit, license, or other form of authorization or consent, this order does not authorize the use of the property unless the claimants first obtain that permit, license or other form of authorization or consent. Such requirements may include, but are not limited to: a building permit, a land use decision, other permits or authorizations from local, state or federal agencies, and restrictions on the use of the property imposed by private parties.
- (c) Any use of the property by the claimant under the terms of this order remain subject to the following laws or local codes: (a) those in effect on the date of the acquisition of the subject property; (b) any enacted or enforced by a public entity other than the County; and (c) those laws not subject to Measure 37 including, without limitation, those exempted under Section (3) of Measure 37.
- (d) Any rights obtained by a claimant through the Board's grant of a waiver of County land use regulations is transferable only to the extent allowed by law.

ADOPTED this 12th day of April, 2007.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By \_\_\_\_\_  
Jed R. Tomkins, Assistant County Attorney

SUBMITTED BY:  
Agnes Sowle, County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDER NO. 07-059**

Order Granting, with Conditions, Ballot Measure 37 Request of Cheryl Ingram Relating to Real Property Located South of SE Orient Drive, Gresham, Oregon

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

a. **Party:** Cheryl Ingram is a Ballot Measure 37 claimant who filed a demand for compensation to Multnomah County (county) on November 22, 2006.

b. **Subject Real Property:** This claim relates to property located South of SE Orient Drive, Gresham, Oregon more specifically described as:

Tax Lot 300, Section 19D,  
Township 1S, Range 4E, W.M.  
Acct # R197100110,

c. **Adequacy of Demand for Compensation (Complete Application):**

**The materials submitted by the Claimant constitute a complete written demand for compensation as required by Multnomah County Code 27.520.**

On November 22, 2006, the claimant submitted a completed Measure 37 Claim Form; a Measure 37 Lot Book Service prepared by First American Title Insurance Company of Oregon; deed information which provides proof of first ownership; a copy of the adopted county land use ordinance when the claimant acquired the subject property; an appraisal report prepared by Norwest Appraisal; and a \$1500 deposit to the county in order to process the claim. Subsequently, the claimant submitted additional title information. This and other materials in the claim record constitute a complete written demand for compensation complying with the county's requirements. MCC 27.520.

The Board finds that the claim materials submitted by the Claimants constitute a complete written demand for compensation as required by Measure 37 and Multnomah County Code 27.530.

d. **Relevant Dates of Property Ownership:**

**The Claimant has established that she obtained an interest in the property prior to the County's adoption of the land use regulations challenged in this claim.**

A deed submitted by the claimant shows that she acquired the property on June 15, 1978, and a Lot Book report, along with County assessment records identify the Claimant as the continuous and current owner of the subject property. This evidence is sufficient to

establish that the Claimant acquired the property on June 15, 1978, and has held continuous ownership thereof ever since.

The subject property was zoned Multiple Use Agriculture-20 acre minimum (MUA-20) on the date the Claimant acquired the property. The zoning changed from MUA-20 to Exclusive Farm Use (EFU) on August 14, 1980, and has remained in EFU ever since. The Claimant challenges the EFU regulations.

The Board finds that the Claimant's acquisition of the subject property on June 15, 1978, preceded the County's adoption of the land use regulations challenged in this claim.

e. **County Codes as a Restriction on Use of the Property:**

**The Claimant has established that the challenged land use regulations have restricted her use of the property.**

The MUA-20 zoning in effect when the claimant acquired the property allowed for a single family dwelling constructed on a lot as a "Primary Use," meaning a new home could be constructed as of right. MCC 3.133.1, Ord. #148 (1978). The MUA-20 imposed standards for property use such as minimum lot size (not triggered here) and parking and access requirements. MCC 3.133 *et seq.*

The EFU zoning code applicable to the subject property in 1980 and ever since contains specific standards for qualifying a dwelling that are more restrictive than the MUA-20 requirements and have the effect of preventing a dwelling from being constructed on the subject property. The Land Use Planning staff report prepared in this claim highlights certain of these restrictions.

In addition to county regulations, Statewide Planning Goals were effective January 1, 1975, prior to the date the claimant acquired the property. Standards for farm and non-farm dwellings in Exclusive Farm zones were also codified in state law prior to 1975. While the county had not yet implemented these rules at the time the claimant acquired the property, the state has taken the position that they are nonetheless applicable and that local jurisdictions must require claimants meet them. We anticipate the state will take a similar position with this claim. This may impact the claimant's ability to construct a dwelling on the property should the Board grant regulatory relief.

The Board finds that the Claimant has established that the challenged land use regulations have restricted her use of the subject property.

f. **County Code Restrictions Reduce Fair Market Value:**

**The Claimant has established that the challenged land use regulations have reduced the fair market value of the property.**

The claimant has submitted an appraisal, drafted by a state certified appraiser, which assesses the current value of the property with and without the right to build a home. The

estimated difference between the current "as-is" value, and the value of Tax Lot 300 if buildable, is \$144,000.

The Claimant's appraisal also contains a comparable market analysis. This information is sufficient to establish that the subject property would have greater value if eligible for the construction of a dwelling than if it was not so eligible. This principle was confirmed by the Multnomah County Division of Assessment and Taxation.

The Board finds that the Claimant has established that the challenged land use regulations have reduced the fair market value of the subject property.

**g. Public Notice**

Section 3.50 of the County Charter requires notice to the public of all Board agenda matters. This notice was provided. The Claimant and persons who own land within 750 feet of the subject property received notice by mail.

**h. Validity of Claim for Compensation:** The Board finds that:

- (1) The claim materials submitted by the Claimants constitute a complete written demand for compensation as required by Measure 37 and Multnomah County Code 27.530.
- (2) The Claimant's acquisition of the subject property on June 15, 1978, preceded the County's adoption of the land use regulations challenged in this claim.
- (3) The Claimant has established that the challenged land use regulations have restricted her use of the subject property.
- (4) The Claimant has established that the challenged land use regulations have reduced the fair market value of the subject property.

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

- 1. Claimants', Measure 37 claim is granted.**
- 2. The County will not pay the compensation demanded by Claimants**
- 3. In lieu of compensation, County Land Use Planning shall not apply the challenged land use regulations to allow the Claimants to use the property for residential purposes as described in this Order. This action by the Board provides the County's authorization to the claimant to use their property subject to the standards in effect on June 15, 1978.**
- 4. Section 3 above, constitutes a waiver of Comprehensive Plan and Rural Area Plan policies that the regulations implement.**

5. The following Conditions of Approval apply to this decision:

- (a) Section 3 above does not constitute a waiver or modification of corresponding state laws, state administrative rules or metropolitan service district regulations that enforce land use regulations applicable to the property.
- (b) To the extent that any law, order, deed, agreement or other legally enforceable public or private requirement provides that the property may not be used without a permit, license, or other form of authorization or consent, this order does not authorize the use of the property unless the claimants first obtain that permit, license or other form of authorization or consent. Such requirements may include, but are not limited to: a building permit, a land use decision, other permits or authorizations from local, state or federal agencies, and restrictions on the use of the property imposed by private parties.
- (c) Any use of the property by the claimant under the terms of this order remain subject to the following laws or local codes: (a) those in effect on the date of the acquisition of the subject property; (b) any enacted or enforced by a public entity other than the County; and (c) those laws not subject to Measure 37 including, without limitation, those exempted under Section (3) of Measure 37.
- (d) Any rights obtained by a claimant through the Board's grant of a waiver of County land use regulations is transferable only to the extent allowed by law.

ADOPTED this 12th day of April, 2007.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Jed R. Tomkins, Assistant County Attorney

SUBMITTED BY:

Agnes Sowle, County Attorney



**MULTNOMAH COUNTY**  
**AGENDA PLACEMENT REQUEST (short form)**

**Board Clerk Use Only**

**Meeting Date:** 04/12/07  
**Agenda Item #:** R-12  
**Est. Start Time:** 1:50 PM  
**Date Submitted:** 03/29/07

**Agenda Title:** **Public Hearing to consider and possibly act upon a Measure 37 Claim filed by Mark and Suzanne Johnson for Compensation ranging from \$341,300 - \$344,888 or the right to establish a farm help dwelling on land is known as 16032 NW McNamee Road (Case File T1-06-144)**

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

**Requested Meeting Date:** April 12, 2007      **Amount of Time Needed:** 20 minutes  
**Department:** Community Services      **Division:** Land Use & Transportation  
**Contact(s):** Adam Barber, Derrick Tokos, Sandra Duffy  
**Phone:** 503-988-3043      **Ext.** 22599      **I/O Address:** 455/1/116  
**Presenter(s):** Adam Barber, Sandra Duffy

**General Information**

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

Action requested is to provide a public hearing and render a decision regarding a Measure 37 claim by Mark and Suzanne Johnson to waive land use regulations which prohibit the establishment of a farm help dwelling at 16032 NW McNamee Rd. Land use planning has outlined an approach to deciding this claim in a staff report dated March 27, 2007.

**2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**

The claimants have challenged the current CFU-2 zoning regulations of MCC 33.2225(B)(1)-(3) which limit residential development to one permanent dwelling per tract of land. The subject property already contains a dwelling and therefore is not eligible under the current regulations for a second dwelling.

The F-2 zoning code in effect when the claimant acquired the property allowed a dwelling or dwellings (plural) for the owner, operator, or help required to carry out grazing, agriculture, horticulture, or the growing of timber (MCC 3.112, Ord. #100). Staff finds a restriction in use has occurred because the current CFU-2 zoning regulations do not have a provision for the establishment of a second dwelling required to help carry out an agricultural operation.

Statewide Planning Goals were effective January 25, 1975, prior to the date the claimant acquired

the property. Standards for farm dwellings in F-2 zones were also codified in state law prior to 1975. While the County had not yet implemented these rules, the state has taken the position they are nonetheless applicable and that local jurisdictions must require claimants meet them. We anticipate the state will take a similar position with this claim. This may impact the claimant's ability to construct a dwelling on the property should the Board grant regulatory relief.

The claimant has submitted an Opinion of Value report prepared by Windermere that estimates the current value of the subject property and dwelling between \$720,300 and \$757,200 (Exhibit 3). The same property containing an additional 1,800 square foot dwelling with full basement is estimated in this report to have increased the value to a range from \$1,061,600 and \$1,116,000. Therefore the estimated reduction in fair market value is between \$341,300 and \$344,888, calculated by subtracting these two ranges of values before and after development. The claimant also submitted a printout from the website [www.domania.com](http://www.domania.com) which displays recent sales prices of homes in the area. Sales prices for three other developed properties in the area ranging in size from 5-12 acres are listed from \$510,400 - \$590,000.

The valuation data submitted is adequate to demonstrate the challenged regulations have reduced the fair market value of the property. A comment letter from Bob Alcantara, Multnomah County Senior Appraisal Supervisor, confirms a buildable lot would be worth more than an unbuildable lot (Exhibit 10). It should be noted that Mr. Alcantara indicates the deed restriction recorded in 1967 (Book 559, Page 403) has the effect of resulting in no loss of value because it limits the development options of the subject property to only one dwelling. After researching this issue further, staff discovered that the referenced covenant had been erroneously recorded in association with the subject property. It was intended only to apply to lots within the McNamee Ridge View Acres to the northwest. Staff finds the 1967 covenant referenced in the properties title report and within Mr. Alcantara's comment letter does not apply to the subject property and therefore is not relevant to this claim. In conclusion, the Opinion of Value report prepared by Windermere is adequate to demonstrate the challenged regulations have reduced the value of the property. Staff recommends the Board of Commissioners find this to be a valid claim.

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

The claimants assert a reduction in value ranging from \$341,300 and \$344,888; however, the claimants are seeking the right to construct the dwelling as an alternative to monetary compensation. An appraisal is needed should the Board prefer compensation as an alternative to regulatory relief.

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

Policy and legal issues are outlined in a staff report from Land Use Planning dated March 27, 2007. The County Attorney has advised that any property rights obtained by relief from land use regulations are not transferable under Ballot Measure 37, consistent with the DOJ opinion of February 2005.

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

Public notice of this hearing has been mailed to all property owners within 750 feet of the subject property, and the claimant. Deliberation and any action on this item will be done following a public hearing at which interested citizens will have an opportunity to testify and provide written comment in accordance with the Board of Commissioners rules of procedure for the hearing.

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**Required Signature**

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Elected Official or  
Department/  
Agency Director:



Date: 03/29/07

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**LAND USE & TRANSPORTATION  
PLANNING PROGRAM**

1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233  
PH: 503-988-3043 FAX: 503-988-3389  
<http://www.co.multnomah.or.us/landuse>

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## Staff Analysis of Measure 37 Claim

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The following matter is scheduled for public hearing, deliberation and possible action before the Multnomah County Board of Commissioners

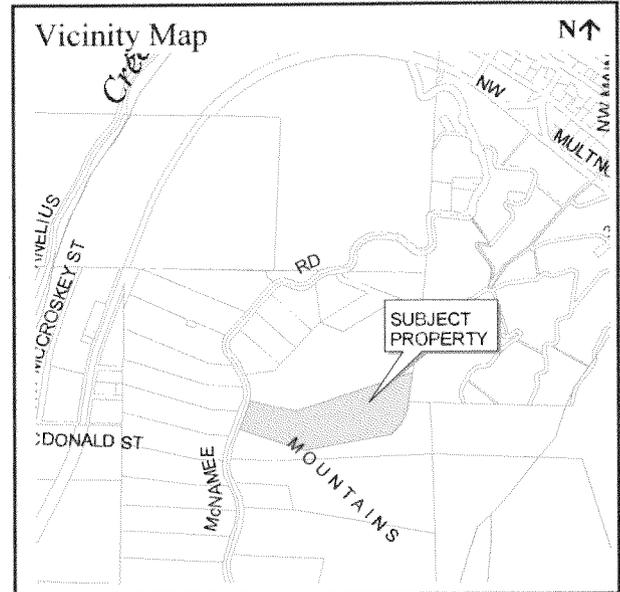
Hearing Date, Time, & Place:

**April 12, 2007 at 1:30 pm** or soon thereafter, in the Commissioners' Board Room of the Multnomah Building, located at 501 SE Hawthorne, Portland, Oregon.

**Case File:** T1-06-144

**Claimants:** Mark and Suzanne Johnson

**Location:** 16032 NW McNamee Road  
Tax Lot 900, Section 19D, T2N, R1W



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**Claim:** Compensation ranging from \$341,300 - \$344,888 or relief from land use regulations that restrict the ability to establish a second dwelling on the property for farm help.

**Zoning:** Commercial Forest Use-2 (CFU-2), Significant Environmental Concern (wildlife habitat and views) and Hillside Development.

**Site Size:** 11.56 acres

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**Approach to Deciding the Claim:**

Mark and Suzanne Johnson (claimants) acquired an interest in the subject property on May 22<sup>nd</sup>, 1975. The claimants have indicated that the challenged regulations enacted after they acquired the property have prevented them from building a second single family dwelling for farm help. Our analysis determines that the current regulations have restricted the use of the property. The claimant's alternative data on comparable sales in the area is adequate to show that zoning regulations have reduced the property value. Because this is a valid Measure 37 claim, the Board must either:

- 1). Provide monetary compensation equal to the value reduction, or
- 2). Set aside the challenged regulations.

Additional appraisal information must be submitted by the claimant if the Board elects to grant monetary compensation in order to verify the exact dollar amount of value reduction.

## Staff Analysis

*(The following is a step-by-step evaluation of the claim, which consists of the application materials submitted by the claimants. The analysis is structured as a series of questions that must be answered to establish if a claim is valid, comparable to the methodology outlined in a February 24, 2005 memo authored by the State Attorney General's Office.)*

1. *Has the owner made a complete written demand under Ballot Measure 37?*

**Yes. The materials submitted by the claimant constitute a complete "written demand for compensation" within the meaning of the measure.**

On December 4<sup>th</sup>, 2006, the claimants submitted a Measure 37 Claim Form (Exhibit 1). Title information from Fidelity National Title Company of Oregon was submitted February 20<sup>th</sup>, 2007 (Exhibit 2). An Opinion of Value report prepared by Windermere was also submitted on February 20<sup>th</sup> (Exhibit 3), along with the identified zoning regulations being challenged (Exhibit 4) and the deed of acquisition (Exhibit 5). These and other materials in the claim record constitute a complete written demand for compensation complying with the county's requirements (MCC 27.520).

2. *Did the claimant acquire the property before the laws in question were adopted?*

**Yes. The claimants obtained an interest in the subject property on May 22<sup>nd</sup>, 1975 (Exhibit 5) prior to the county adopting the challenged regulations set out in the claim.**

The zoning of the parcel was F-2 (agricultural) when acquired by the claimants in 1975 which was changed to MUF-20 (Multiple Use forest-20) on 10/6/77, MUF-19 on 8/14/80 and to CFU (Commercial Forest Use) on 1/7/93. The current CFU-2 zoning regulations being challenged were first applied to this property on August 8<sup>th</sup>, 1998. Staff finds the claimants acquired an interest in the subject property prior to the adoption of the challenged regulations.

3. *Have the challenged regulations restricted the use of the property?*

**Yes, the current regulations have restricted the use of the property.**

The claimants have challenged the current CFU-2 zoning regulations of MCC 33.2225(B)(1)-(3) which limit residential development to one permanent dwelling per tract of land. The subject property already contains a dwelling and therefore is not eligible under the current regulations for a second dwelling.

The F-2 zoning code in effect when the claimant acquired the property allowed a dwelling or dwellings (plural) for the owner, operator, or help required to carry out grazing, agriculture, horticulture, or the growing of timber (MCC 3.112, Ord. #100). Because the current CFU-2 zoning regulations do not have a provision for the establishment of a second dwelling required to help carry out an agricultural operation, Staff finds a restriction in use has occurred.

Statewide Planning Goals were effective January 25<sup>th</sup>, 1975, prior to the date the claimant acquired the property. Standards for farm dwellings in F-2 zones were also codified in state law prior to 1975. While the County had not yet implemented these rules, the state has taken the position they are nonetheless applicable and that local jurisdictions must require claimants meet them. We anticipate the state will take a similar position with this claim. This may impact the claimant's ability to construct a dwelling on the property should the Board grant regulatory relief.

4. *Have the restrictions reduced the fair market value of the property?*

**Yes, the challenged regulations have reduced the fair market values of the property involved in this claim.**

The claimant has submitted an Opinion of Value report prepared by Windermere that estimates the current value of the subject property and dwelling between \$720,300 and \$757,200 (Exhibit 3). The same property containing an additional 1,800 square foot dwelling with full basement is estimated in this report to have increased the value to a range from \$1,061,600 and \$1,116,000. Therefore the estimated reduction in fair market value is between \$341,300 and \$344,888, calculated by subtracting these two ranges of values before and after development. The claimant also submitted a printout from the website [www.domania.com](http://www.domania.com) which displays recent sales prices of homes in the area. Sales prices for three other developed properties in the area ranging in size from 5-12 acres are listed from \$510,400 - \$590,000.

The valuation data submitted is adequate to demonstrate the challenged regulations have reduced the fair market value of the property. A comment letter from Bob Alcantara, Multnomah County Senior Appraisal Supervisor, confirms a buildable lot would be worth more than an unbuildable lot (Exhibit 10). It should be noted that Mr. Alcantara indicates the deed restriction recorded in 1967 (Book 559, Page 403) has the effect of resulting in no loss of value because it limits the development options of the subject property to only one dwelling. After researching this issue further, Staff discovered that the referenced covenant had been erroneously recorded in association with the subject property when it was intended only to apply to lots within the McNamee Ridge View Acres to the northwest. Staff finds the 1967 covenant referenced in the properties title report and within Mr. Alcantara's comment letter does not apply to the subject property and therefore is not relevant to this claim. In conclusion, the Opinion of Value report prepared by Windermere is adequate to demonstrate the challenged regulations have reduced the value of the property.

5. *Have those regulations that reduce the fair market value of the property been enforced?*

**Yes, the challenged regulations have been enforced.**

The plain language of the Commercial Forest Use-2 (CFU-2) district prohibits the construction of a farm help dwelling by not including it as a use in the zone. Enforcement of the challenged regulations has occurred through adoption into Multnomah County Code.

**Public Comment**

**After a claim for compensation is declared complete pursuant to MCC 27.520(B), the Director shall mail notice of the claim to the claimant, other owners of record of the property, and all owners of property within 750 feet of the subject property. Additional mail notice shall be sent to any public entities with land use regulatory authority over the property and other organizations or persons as the Director may designate (MCC 27.530(A)).**

Pursuant to the provisions of MCC 27.530, a 14-day Opportunity to Comment packet was mailed on March 2<sup>nd</sup>, 2007. Comments were received from Alison Winter, Multnomah County Transportation Planning Specialist, who indicated more information would be required regarding the proposed development to determine the necessary transportation-related requirements (Exhibit 8). Ms. Winter continues to list a number of development standards that may be required to be met. Timothy Johnson, a

neighbor who is not related to the claimants, submitted a comment letter which was received March 16<sup>th</sup>, 2007 voicing support for the claimant's development goals (Exhibit 11).

Mark Johnson, claimant, also submitted a comment letter received March 16<sup>th</sup>, 2007. In this letter, Mr. Johnson explains the Declaration of Condition and Restriction covenant language in Exhibit 12 restricting development to only one dwelling per lot was intended for the protection of small lot owners within the McNamee Ridge View Acres subdivision and that in 1967 an owner would have been able to divide off a 2-acre property to construct a home.

### **Conclusion**

Considering the above findings, Mark and Suzanne Johnson have established that land use regulations enacted after they acquired the subject property have prevented them from building a farm help dwelling. The comparable sales data provided by the claimants establishes that the above listed regulations have reduced the fair market value of the identified property. In order to allow the claimants to utilize zoning regulations in effect upon acquisition, the Board would need to grant the request to not apply the regulations of the CFU-2 zoning district since they don't provide for the use requested.

If the Board of Commissioners chooses to not apply the regulations listed, Land Use Planning would recommend that the Board of Commissioners address the following in the Board Order:

1. Include a statement that any waiver or modification of the county land use regulations does not constitute a waiver or modification of corresponding state laws, or administrative rules. Before any building permits may be issued, an authorization from the state must be secured.
2. Note that waiver of the listed regulations also constitutes a waiver of Comprehensive Plan and Rural Area Plan policies that the rules implement.
3. Action by the Board of Commissioners to not apply regulations does not authorize immediate construction of the dwelling. Rules that still apply require that land use and building permits be approved by the County before development can proceed.
4. Include a statement that any right obtained by a claimant through the Board's grant of a waiver of County land use regulations is transferable only to the extent allowed by law.

Issued by:

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

Adam Barber, Planner

For: Karen Schilling- Planning Director

Date: March 27, 2007

## Exhibits

Copies of the exhibits, referenced herein, and all other materials submitted to the County related to this claim are included in the case record that is on file at the Land Use and Transportation Planning Office.

1. Measure 37 Claim Form
2. Fidelity National Preliminary Title Report
3. Opinion of Value Report prepared by Windermere and alternative data provided by applicant
4. Challenged CFU-2 zoning regulations
5. 1975 Deed of Acquisition (Bk 1042, Pg 379-380)
6. Narrative statements submitted by the claimant
7. Declaration of Conditions and Restrictions recorded May 2, 1967 (Bk 559, Pg 403)
8. 3/9/07 Comment letter from Alison Winter, County Transportation Planning Specialist
9. Legal Analysis from Sandy Duffy, Assistant County Attorney dated March 27, 2007
10. Comment from Bob Alcantara, Senior Appraisal Supervisor dated March 23, 2007
11. Comment letter from Timothy Johnson, neighbor received 3/16/07
12. Comment letter from Mark Johnson, claimant, received 3/16/07

March 15, 2007

RE: Case File T1-06-144

Multnomah County Land Use and Transportation Program  
1600 SE 190th Ave  
Portland, OR 97233

To Whom It May Concern:

This letter is in response to the 'notice of opportunity to comment' I received from your office regarding the Measure 37 claim initiated by Mark and Susan Johnson. Upon receipt of the notice, I spoke with Mark concerning his goals and plans for the future of his family and farm activity as they are affected by the cited MCC regulations. As a neighbor and acquaintance of many years, who has observed the Johnsons' efforts in establishing and successfully growing their farm business to it's present state, I believe I have a clear understanding of those goals and plans and wish to state my support of their fulfillment.



Timothy J. Johnson

P.S. As a matter of clarification, although we have the same last name, Mark and I are not related.

EXHIBIT  
11

Mark & Susan Johnson  
16032 NW McNamee Rd.  
Portland, OR 97231

March 13, 2007

Adam Barber  
Land Use and Transportation Program  
1600 SE 190<sup>th</sup> Ave.  
Portland, OR 972333

Dear Mr. Barber:

I am writing you in response to your letter dated March 1, 2007, in which you requested that I address the issue of the covenant upon my land.

At the time this covenant was recorded (April/May 1967) my Grandfather was in the process of subdividing his quarter section to form "Mc Namee Ridge View Acres." The land on the west side of the road was broken into five-acre lots and the land on the east side of the road was broken into two-acre lots.

The Multnomah county planning commission approved 12 of the five-acre lots on the west side of the road on August 25, 1967. An additional 7 of the two-acre lots were approved by the planning commission on the west side of the road in December of 1967. The remaining 74 acres were left to be subdivided at a later date.

This covenant obviously was intended for the protection of the small lot owners. As an owner of more than 11 acres it is my understanding that if I had desired an additional home on my property at the time it would have been simpler for me to merely broken off a two-acre portion of my land and built the needed home.

My alternative would obviously be to request a 2 acre piece be divided from my property to facilitate the home. I appreciate your ongoing review of my request and would welcome any further questions or comments that you may have.

Sincerely,



Mark Johnson

EXHIBIT  
12

**Multnomah County Attorney's Office**  
**501 S.E. Hawthorne Blvd., Suite 500**  
**Portland, Oregon 97214**  
**PHONE: (503) 988-3138**  
**FAX: (503) 988-3377**



## **MEMORANDUM**

**To:** Adam Barber  
Multnomah County Planner

**Cc:** Derrick Tokos, Principal Planner

**From:** Jed Tomkins  
Assistant County Attorney  
Multnomah County Attorney's Office

**Date:** March 27, 2007

**Re:** Mark and Suzanne Johnson, Ballot Measure 37 Claim T1-06-144

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I have reviewed your revised staff report for legal sufficiency under MCC 27.500 *et. seq.* Your revised staff report, which recommends validation of the claim, has adequately addressed each required criteria and correctly applied Measure 37 and the county's implementing regulations. This memorandum addresses revisions to the staff report and supersedes the March 23, 2007, memorandum issued by Sandy Duffy, Assistant Multnomah County Attorney.

# Script for Hardin; Ingram and Johnson 04/12/07 Measure 37 Hearings

Thursday, April 12, 2007 - 1:30 PM  
Multnomah Building, First Floor Commissioners Boardroom 100  
501 SE Hawthorne Boulevard, Portland

## REGULAR MEETING - CONTINUED

***Chair Ted Wheeler reconvenes the meeting at 1:30 p.m., with Commissioners Lonnie Roberts and Jeff Cogen present, and Vice-Chair Maria Rojo de Steffey and Commissioner Lisa Naito excused.***

### INTRODUCTION:

**Chair:** This is the time set for public hearings on the claims of Elbridge and Dorothy Hardin; Cheryl Ingram and Mark and Suzanne Johnson under Ballot Measure 37. I am Ted Wheeler, Chair of the Multnomah County Board of Commissioners. Also in attendance are Commissioners Jeff Cogen and Lonnie Roberts. Commissioners Maria Rojo and Lisa Naito are excused.

All information relevant to these claims may be submitted and will be considered in these hearings. The evidence may be in any form including oral and written testimony, letters, petitions or other written material, slides, photographs, maps drawings or other items.

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

### DISCLOSURES:

**Chair:** Board members are required to disclose the content of any *ex parte* contacts. Any Board member who has received any factual information obtained outside the information provided by the county planning staff or this hearing is an *ex parte* contact. A visit to the property is considered an *ex parte* contact. Any *ex parte* contacts should be disclosed at this time. Such disclosures should include the time and date of the visit, what he/she observed, who (if anyone) the Commissioner talked to at the site and any other relevant facts or observations obtained as a result of the site visit.

**Chair:** I have *no ex parte* contacts to disclose regarding any of the claims we are hearing today.

*or if the Chair has disclosures to make*

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

## **Script for Hardin; Ingram and Johnson 04/12/07 Measure 37 Hearings**

**Chair:** [Invite the other Commissioners to make any necessary disclosures.]  
Commissioner Cogen? Commissioner Roberts? [If there are none, each Commissioner should say “none” on the record.]

[If there are disclosures of *ex parte* contacts, the claimant and the public should be given an opportunity to rebut the substance of any disclosure. “Does anyone have any rebuttal testimony relating to any disclosure?”]

**Chair:** Board members are also required to disclose any conflicts of interest and to recuse themselves from deliberation and voting if a conflict exists. It is deemed a conflict of interest if any Board member, or a member of his/her immediate family or household, has a financial interest in the outcome of a matter before the Board. It is a conflict of interest if a Board member lives within the geographical area entitled to notice of a claim.

**Chair:** Does any Board member, or a member of his/her immediate family or household, have a financial interest in the outcome of any of the claims now before us?

I do [do not] have a financial interest in the outcome of any of these claims. [Invite other commissioners to make any necessary disclosures.] Commissioner Cogen?  
Commissioner Roberts? [If yes, that person must recuse himself/herself on the record.]

Does any Board member live within the geographical area entitled to notice of any of these claims?

I do [do not] live within the geographical area of any of these claims. Commissioner Cogen? Commissioner Roberts?

[Any commissioner who lives within the relevant geographical area of a claim must recuse himself/herself. MCC 7.540]

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

**Chair:** In each of these hearings, I will ask for testimony and other evidence in the following order:

1. Staff report
2. Claimant or claimant’s representative
3. Others who wish to be heard on the claim
4. Commission discussion, questions, deliberation
5. Future scheduling if necessary

### **HOW TO PRESENT TESTIMONY:**

## Script for Hardin; Ingram and Johnson 04/12/07 Measure 37 Hearings

**Chair:** There are testimony cards at the back of the room and should be filled out by anyone wishing to testify. The claimants need not fill out a card. The cards should be given to the Board Clerk.

1. State your name and address before you begin your presentation
2. Avoid repetitive testimony
3. During the hearing, I ask those in the audience to refrain from any demonstration in support or opposition to the claim.

**Chair:** Please call the first hearing.

**Board Clerk:**

R-10 Continued Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by Elbridge and Dorothy Hardin for \$300,000 in Compensation or Relief from Regulations to Allow Development of a Single Family Residence on Each of Two Properties Located Adjacent to 4510 SE 302nd Avenue, Troutdale (Case File T1-06-079) [Continued from March 29, 2007]

**Chair:** [Ask for testimony in the order previously stated]

**AT THE CONCLUSION OF THE TESTIMONY:**

**Chair:** [Ask for Board discussion, questions, deliberation, motion and/or future scheduling if necessary]

**AFTER DISCUSSION:**

Do I have a motion on R-10?

**COMMISSIONER \_\_\_\_\_ MOVES  
COMMISSIONER \_\_\_\_\_ SECONDS  
APPROVAL OF AN Order Granting, with  
Conditions, Ballot Measure 37 Request of  
Elbridge and Dorothy Hardin Relating to  
Two Parcels of Real Property Located on  
S.E. 302nd Avenue, Troutdale, Oregon**

**OPPORTUNITY FOR BOARD COMMENTS**

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

**THE MOTION FAILS  
OR  
THE ORDER IS ADOPTED**

**Script for Hardin; Ingram and Johnson 04/12/07 Measure 37 Hearings**

**Chair:** Please call the next hearing.

**Board Clerk:**

R-11 Public Hearing to consider and possibly act upon a Measure 37 Claim for Cheryl Ingram for up to \$144,000 in compensation or relief from regulations to allow for the development of a single family residence on property located south of SE Orient Drive, Gresham [T1S, R4E, Sec 19D, TL 300] (Case File T1-06-094)

**Chair:** [Ask for testimony in the order previously stated]

**AT THE CONCLUSION OF THE TESTIMONY:**

**Chair:** [Ask for Board discussion, questions, deliberation, motion and/or future scheduling if necessary]

**AFTER DISCUSSION:**

Do I have a motion on R-11?

**COMMISSIONER \_\_\_\_\_ MOVES  
COMMISSIONER \_\_\_\_\_ SECONDS  
APPROVAL OF AN Order Granting, with  
Conditions, Ballot Measure 37 Request of  
Cheryl Ingram Relating to Real Property  
Located South of SE Orient Drive,  
Gresham, Oregon**

**OPPORTUNITY FOR BOARD COMMENTS**

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

**THE MOTION FAILS  
OR  
THE ORDER IS ADOPTED**

**Chair:** Please call the next hearing.

**Board Clerk:**

R-12 Public Hearing to consider and possibly act upon a Measure 37 Claim filed by Mark and Suzanne Johnson for Compensation ranging from \$341,300 - \$344,888 or the right to establish a farm help dwelling on land known as 16032 NW McNamee Road, Portland (Case File T1-06-144)

**Script for Hardin; Ingram and Johnson 04/12/07 Measure 37 Hearings**

**Chair:** [Ask for testimony in the order previously stated]

**AT THE CONCLUSION OF THE TESTIMONY:**

**Chair:** [Ask for Board discussion, questions, deliberation, motion and/or future scheduling if necessary]

**AFTER DISCUSSION:**

Do I have a motion on R-12?

**COMMISSIONER \_\_\_\_\_ MOVES  
COMMISSIONER \_\_\_\_\_ SECONDS  
APPROVAL OF AN Order Granting, with  
Conditions, Ballot Measure 37 Request of  
Mark and Suzanne Johnson Relating to  
parcel of land located at 16032 NW  
McNamee Road, Multnomah County,  
Oregon**

**OPPORTUNITY FOR BOARD COMMENTS**

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

**THE MOTION FAILS  
OR  
THE ORDER IS ADOPTED**

**THERE BEING NO FURTHER BUSINESS, THE MEETING IS  
ADJOURNED.**

# DRAFT

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. \_\_\_\_\_

Order Granting, with Conditions, Ballot Measure 37 Request of Mark and Suzanne Johnson Relating to parcel of land located at 16032 NW McNamee Road, Multnomah County, Oregon

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

- a. **Parties:** Mark and Suzanne Johnson are the Ballot Measure 37 Claimants who filed a demand for compensation to Multnomah County on December 4, 2006.
- b. **Subject Real Property:** This claim relates to real property located at 16032 NW McNamee Road, Multnomah County, Oregon, more specifically described as:

Tax Lot 900, Section 19D, T2N, R1W

Acct # R-

- c. **Adequacy of Demand for Compensation:**

**The materials submitted by the Claimants constitute a complete written demand for compensation as required by Multnomah County Code 27.520.**

On December 4, 2006, the claimants submitted a Measure 37 Claim Form. Title information from Fidelity National Title Company of Oregon was submitted February 20, 2007. An Opinion of Value report prepared by Windermere was also submitted on February 20, along with the identified zoning regulations being challenged and the deed of acquisition. These and other materials in the claim record constitute a complete written demand for compensation complying with the county's requirements (MCC 27.520).

The Board finds that the materials submitted by the claimant constitute a complete "written demand for compensation" within the meaning of the measure.

- d. **Relevant Dates of Property Ownership:**

**The Claimants have established that they obtained an interest in the property prior to the County's adoption of the land use regulations challenged in this claim.**

The zoning of the parcel was F-2 (agricultural) when acquired by the claimants in 1975 which was changed to MUF-20 (Multiple Use forest-20) on 10/6/77, MUF-19 on 8/14/80 and to CFU (Commercial Forest Use) on 1/7/93. The current CFU-2 zoning regulations being challenged were first applied to this property on August 8, 1998.

The Board finds that the claimants obtained an interest in the subject property on May 22<sup>nd</sup>, 1975 prior to the county adopting the challenged regulations set out in the claim.

- e. **County Codes as a Restriction on Use of the Property:**

**The Claimants have established that the challenged land use regulations have restricted their use of the property.**

# DRAFT

The claimants have challenged the current CFU-2 zoning regulations of MCC 33.2225(B)(1)-(3) which limit residential development to one permanent dwelling per tract of land. The subject property already contains a dwelling and therefore is not eligible under the current regulations for a second dwelling.

The F-2 zoning code in effect when the claimant acquired the property allowed a dwelling or dwellings (plural) for the owner, operator, or help required to carry out grazing, agriculture, horticulture, or the growing of timber (MCC 3.112, Ord. #100). Because the current CFU-2 zoning regulations do not have a provision for the establishment of a second dwelling required to help carry out an agricultural operation, a restriction in use has occurred.

Statewide Planning Goals were effective January 25, 1975, prior to the date the claimant acquired the property. Standards for farm dwellings in F-2 zones were also codified in state law prior to 1975. While the County had not yet implemented these rules, the state has taken the position they are nonetheless applicable and that local jurisdictions must require claimants meet them. The County anticipates the state will take a similar position with this claim. This may impact the claimant's ability to construct a dwelling on the property should the Board grant regulatory relief

The Board finds that the Claimants have established that the challenged land use regulations have restricted their use of the subject property.

f. **County Code Restrictions Reduce Fair Market Value:**

**The Claimants have established that the challenged land use regulations have reduced the fair market value of the property.**

The claimant has submitted an Opinion of Value report prepared by Windermere that estimates the current value of the subject property and dwelling between \$720,300 and \$757,200. The same property containing an additional 1,800 square foot dwelling with full basement is estimated in this report to have increased the value to a range from \$1,061,600 and \$1,116,000. Therefore, the estimated reduction in fair market value is between \$341,300 and \$344,888, calculated by subtracting these two ranges of values before and after development. The claimant also submitted a printout from the website [www.domania.com](http://www.domania.com) which displays recent sales prices of homes in the area. Sales prices for three other developed properties in the area ranging in size from 5-12 acres are listed from \$510,400 - \$590,000.

The valuation data submitted is adequate to demonstrate the challenged regulations have reduced the fair market value of the property. A comment letter from Bob Alcantara, Multnomah County Senior Appraisal Supervisor, confirms a buildable lot would be worth more than an unbuildable lot. It should be noted that Mr. Alcantara indicates the deed restriction recorded in 1967 (Book 559, Page 403) has the effect of resulting in no loss of value because it limits the development options of the subject property to only one dwelling. After researching this issue further, Staff discovered that the referenced covenant had been erroneously recorded in association with the subject property when it was intended only to apply to lots within the McNamee Ridge View Acres to the northwest. The Board finds the 1967 covenant referenced in the properties title report and within Mr. Alcantara's comment letter does not apply to the subject property and therefore is not relevant to this claim. In conclusion, the Opinion of Value report prepared by Windermere is adequate to demonstrate the challenged regulations have reduced the value of the property.

# DRAFT

The Board finds that the Claimants have established that the challenged regulations have reduced the fair market value of the subject property.

g. **Public Notice**

Section 3.50 of the County Charter requires notice to the public of all Board agenda matters. This notice was provided. The Claimant and persons who own land within 750 feet of the subject property received notice by mail.

h. **Validity of Claim for Compensation:** The Board finds that:

- (1) The claim materials submitted by the Claimants constitute a complete written demand for compensation as required by Measure 37 and Multnomah County Code 27.530.
- (2) The Claimants' acquisition of the subject property on May 22, 1975, preceded the County's adoption of the land use regulations challenged in this claim.
- (3) The Claimants have established that the challenged land use regulations have restricted their use of the subject property.
- (4) The Claimants have established that the challenged land use regulations have reduced the fair market value of the subject property.

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

1. **Claimants', Measure 37 claim is granted.**
2. **The County will not pay the compensation demanded by Claimants**
3. **In lieu of compensation, County Land Use Planning shall not apply the challenged land use regulations to allow the Claimants to use the property for residential purposes as described in this Order. This action by the Board provides the County's authorization to the claimant to use their property subject to the standards in effect on May 22, 1975.**
4. **Section 3 above, constitutes a waiver of Comprehensive Plan and Rural Area Plan policies that the regulations implement.**
5. **The following Conditions of Approval apply to this decision:**
  - (a) Section 3 above does not constitute a waiver or modification of corresponding state laws, state administrative rules or metropolitan service district regulations that enforce land use regulations applicable to the property.
  - (b) To the extent that any law, order, deed, agreement or other legally enforceable public or private requirement provides that the property may not be used without a permit, license, or other form of authorization or consent, this order does not authorize the use of the property unless the claimants first obtain that permit, license or other form of authorization or consent. Such requirements may include, but are not limited to: a building permit, a land use decision, other permits or authorizations from local, state or federal agencies, and restrictions on the use of the property imposed by private parties.

# DRAFT

- (c) Any use of the property by the claimant under the terms of this order remain subject to the following laws or local codes: (a) those in effect on the date of the acquisition of the subject property; (b) any enacted or enforced by a public entity other than the County; and (c) those laws not subject to Measure 37 including, without limitation, those exempted under Section (3) of Measure 37.
- (d) Any rights obtained by a claimant through the Board's grant of a waiver of County land use regulations, is transferable only to the extent allowed by law.

ADOPTED this 12th day of April, 2007.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By \_\_\_\_\_  
Jed R. Tomkins, Assistant County Attorney

SUBMITTED BY:

Agnes Sowle, County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDER NO. 07-060**

Order Granting, with Conditions, Ballot Measure 37 Request of Mark and Suzanne Johnson Relating to parcel of land located at 16032 NW McNamee Road, Multnomah County, Oregon

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

- a. **Parties:** Mark and Suzanne Johnson are the Ballot Measure 37 Claimants who filed a demand for compensation to Multnomah County on December 4, 2006.
- b. **Subject Real Property:** This claim relates to real property located at 16032 NW McNamee Road, Multnomah County, Oregon, more specifically described as:

Tax Lot 900, Section 19D, T2N, R1W  
Acct # R-971190330

- c. **Adequacy of Demand for Compensation:**

**The materials submitted by the Claimants constitute a complete written demand for compensation as required by Multnomah County Code 27.520.**

On December 4, 2006, the claimants submitted a Measure 37 Claim Form. Title information from Fidelity National Title Company of Oregon was submitted February 20, 2007. An Opinion of Value report prepared by Windermere was also submitted on February 20, along with the identified zoning regulations being challenged and the deed of acquisition. These and other materials in the claim record constitute a complete written demand for compensation complying with the county's requirements (MCC 27.520).

The Board finds that the materials submitted by the claimant constitute a complete "written demand for compensation" within the meaning of the measure.

- d. **Relevant Dates of Property Ownership:**

**The Claimants have established that they obtained an interest in the property prior to the County's adoption of the land use regulations challenged in this claim.**

The zoning of the parcel was F-2 (agricultural) when acquired by the claimants in 1975 which was changed to MUF-20 (Multiple Use forest-20) on 10/6/77, MUF-19 on 8/14/80 and to CFU (Commercial Forest Use) on 1/7/93. The current CFU-2 zoning regulations being challenged were first applied to this property on August 8, 1998.

The Board finds that the claimants obtained an interest in the subject property on May 22<sup>nd</sup>, 1975 prior to the county adopting the challenged regulations set out in the claim.

- e. **County Codes as a Restriction on Use of the Property:**

**The Claimants have established that the challenged land use regulations have restricted their use of the property.**

The claimants have challenged the current CFU-2 zoning regulations of MCC 33.2225(B)(1)-(3) which limit residential development to one permanent dwelling per tract of land. The subject property already contains a dwelling and therefore is not eligible under the current regulations for a second dwelling.

The F-2 zoning code in effect when the claimant acquired the property allowed a dwelling or dwellings (plural) for the owner, operator, or help required to carry out grazing, agriculture, horticulture, or the growing of timber (MCC 3.112, Ord. #100). Because the current CFU-2 zoning regulations do not have a provision for the establishment of a second dwelling required to help carry out an agricultural operation, a restriction in use has occurred.

Statewide Planning Goals were effective January 25, 1975, prior to the date the claimant acquired the property. Standards for farm dwellings in F-2 zones were also codified in state law prior to 1975. While the County had not yet implemented these rules, the state has taken the position they are nonetheless applicable and that local jurisdictions must require claimants meet them. The County anticipates the state will take a similar position with this claim. This may impact the claimant's ability to construct a dwelling on the property should the Board grant regulatory relief

The Board finds that the Claimants have established that the challenged land use regulations have restricted their use of the subject property.

f. **County Code Restrictions Reduce Fair Market Value:**

**The Claimants have established that the challenged land use regulations have reduced the fair market value of the property.**

The claimant has submitted an Opinion of Value report prepared by Windermere that estimates the current value of the subject property and dwelling between \$720,300 and \$757,200. The same property containing an additional 1,800 square foot dwelling with full basement is estimated in this report to have increased the value to a range from \$1,061,600 and \$1,116,000. Therefore, the estimated reduction in fair market value is between \$341,300 and \$344,888, calculated by subtracting these two ranges of values before and after development. The claimant also submitted a printout from the website [www.domania.com](http://www.domania.com) which displays recent sales prices of homes in the area. Sales prices for three other developed properties in the area ranging in size from 5-12 acres are listed from \$510,400 - \$590,000.

The valuation data submitted is adequate to demonstrate the challenged regulations have reduced the fair market value of the property. A comment letter from Bob Alcantara, Multnomah County Senior Appraisal Supervisor, confirms a buildable lot would be worth more than an unbuildable lot. It should be noted that Mr. Alcantara indicates the deed restriction recorded in 1967 (Book 559, Page 403) has the effect of resulting in no loss of value because it limits the development options of the subject property to only one dwelling.

After researching this issue further, Staff discovered that the referenced covenant had been erroneously recorded in association with the subject property when it was intended only to apply to lots within the McNamee Ridge View Acres to the northwest. The Board finds the 1967 covenant referenced in the properties title report and within Mr. Alcantara's comment letter does not apply to

the subject property and therefore is not relevant to this claim. In conclusion, the Opinion of Value report prepared by Windermere is adequate to demonstrate the challenged regulations have reduced the value of the property.

The Board finds that the Claimants have established that the challenged regulations have reduced the fair market value of the subject property.

**g. Public Notice**

Section 3.50 of the County Charter requires notice to the public of all Board agenda matters. This notice was provided. The Claimant and persons who own land within 750 feet of the subject property received notice by mail.

**h. Validity of Claim for Compensation:** The Board finds that:

- (1) The claim materials submitted by the Claimants constitute a complete written demand for compensation as required by Measure 37 and Multnomah County Code 27.530.
- (2) The Claimants' acquisition of the subject property on May 22, 1975, preceded the County's adoption of the land use regulations challenged in this claim.
- (3) The Claimants have established that the challenged land use regulations have restricted their use of the subject property.
- (4) The Claimants have established that the challenged land use regulations have reduced the fair market value of the subject property.

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

1. **Claimants', Measure 37 claim is granted.**
2. **The County will not pay the compensation demanded by Claimants**
3. **In lieu of compensation, County Land Use Planning shall not apply the challenged land use regulations to allow the Claimants to use the property for residential purposes as described in this Order. This action by the Board provides the County's authorization to the claimant to use their property subject to the standards in effect on May 22, 1975.**
4. **Section 3 above, constitutes a waiver of Comprehensive Plan and Rural Area Plan policies that the regulations implement.**
5. **The following Conditions of Approval apply to this decision:**
  - (a) Section 3 above does not constitute a waiver or modification of corresponding state laws, state administrative rules or metropolitan service district regulations that enforce land use regulations applicable to the property.
  - (b) To the extent that any law, order, deed, agreement or other legally enforceable public or private requirement provides that the property may not be used without a permit, license, or other form of authorization or consent, this order does not authorize the use of the

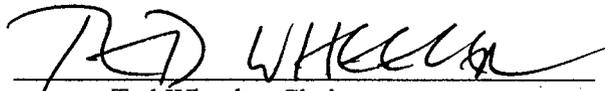
property unless the claimants first obtain that permit, license or other form of authorization or consent. Such requirements may include, but are not limited to: a building permit, a land use decision, other permits or authorizations from local, state or federal agencies, and restrictions on the use of the property imposed by private parties.

- (c) Any use of the property by the claimant under the terms of this order remain subject to the following laws or local codes: (a) those in effect on the date of the acquisition of the subject property; (b) any enacted or enforced by a public entity other than the County; and (c) those laws not subject to Measure 37 including, without limitation, those exempted under Section (3) of Measure 37.
- (d) Any rights obtained by a claimant through the Board's grant of a waiver of County land use regulations, is transferable only to the extent allowed by law.

ADOPTED this 12th day of April, 2007.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON



  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Jed R. Tomkins, Assistant County Attorney

SUBMITTED BY:

Agnes Sowle, County Attorney