

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 08-124**

Approving the Memorandum of Agreement between Multnomah County (the "County") and the Multnomah County Sheriff's Office (MCSO), and the Multnomah County Corrections Deputies Association (MCCDA)

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

- a. The County, MCSO and MCCDA wish to resolve the issues surrounding the transfer of the Close Street Supervision Program in 2005 which up until this time provided pretrial supervision services to high risk offenders; and
- b. The County is undertaking an extensive study and analysis of its pretrial services programs which will help to shape the future of the pretrial continuum of services in Multnomah County; and
- c. The parties have reached agreement on all issues concerning the return of pretrial supervision work to MCSO and staffed by MCCDA; and
- d. The parties wish to implement an orderly, effective, and final resolution of the disputes between the parties which will insure fair, efficient, and effective administration of the County's pretrial supervision programs while giving highest priority to safety of the public.

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

The Memorandum of Agreement between Multnomah County and the Multnomah County Sheriff's Office (MCSO), and the Multnomah County Corrections Deputies Association (MCCDA) is approved with an effective date of September 11, 2008.

ADOPTED this 11th day of September, 2008.



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:

Travis Graves, Multnomah County Human Resources Director

## **MEMORANDUM OF AGREEMENT**

This Memorandum of Agreement is entered into between Multnomah County (the "County"), the Multnomah County Sheriff's Office ("MCSO"), and the Multnomah County Corrections Deputies Association ("MCCDA").

WHEREAS, prior to October 18, 2005 the members of MCCDA staffed the Close Street Supervision program in MCSO, providing pretrial supervision services to high risk offenders for more than 20 years; and

WHEREAS, the Employment Relations Board of the State of Oregon has determined in Case No. UP-58-05 that the County's October 18, 2005 unilateral change in its staffing of pretrial supervision programs was a violation of the Public Employee Collective Bargaining Act; and

WHEREAS, the County is undertaking an extensive study and analysis of its pretrial services programs called the Pretrial Services Continuum Study ("Pretrial Study"); and

WHEREAS, the parties have reached agreement on the amount of overtime pay compensation required by the order of the ERB in Case No. UP-58-05; and

WHEREAS, the parties wish to implement an orderly, effective, and final resolution of the disputes between the parties which will insure fair, efficient, and effective administration of the County's pretrial supervision programs while giving highest priority to the safety of the public;

NOW, THEREFORE, the parties agree as follows:

1. Effective on September 1, 2008, the County will assign, pursuant to Article 14.4, one Corrections Sergeant to work full-time in providing pretrial supervision and monitoring services for out-of-custody defendants awaiting trial.

As soon as feasible, but not later than October 1, 2008, the County will assign not less than the five incumbent Corrections Deputies whose names appear on Appendix A to work full-time in providing pretrial supervision and monitoring services for out-of-custody defendants awaiting trial.

Effective no later than October 15, 2008, the County will, pursuant to Article 14.4, assign an additional two Corrections Deputies to work full-time providing the same services. In the event any of the incumbent Corrections Deputies whose names appear on Appendix A decline assignment to the Close Street Program, the County will assign one additional Corrections Deputy to replace each such incumbent. The assignment for any such replacement Corrections Deputy shall also become effective no later than October 15, 2008. The incumbents with more than two years remaining who were transferred out of the Close Street Program on October 18, 2005 shall be offered the opportunity to complete their rotations as set forth in Appendix A; any additional staff, including any assigned to replace incumbents who decline the offer of assignments to the Close Street Program, will serve the normal four year rotation. The assignment of cases to MCCDA members shall be determined by the County.

2. MCCDA members assigned to work in pretrial supervision services shall be provided with the appropriate equipment necessary to perform their duties, including but not limited to computer resources, radios, County vehicles (subject to the County's fleet vehicle policies), ballistic vests, firearms, and less-lethal weapons equipment. MCCDA members assigned to pretrial supervision functions also will receive appropriate training for those positions.

3. The MCCDA staffing of pretrial supervision positions shall remain at the minimum staffing level specified in Paragraph 1, at least through completion of the pending Pretrial Study. The County represents that this Study is an objective study intended to make recommendations on the optimal structure and design of County pretrial supervision services, and is not intended to resolve the recently-litigated work transfer issues. Following completion of that Study, the County will determine what changes, if any, it regards as necessary to implement the recommendations of that Study. The County agrees that, should it desire to implement recommendations of that Study, it will maintain the minimum MCCDA staffing level specified in Paragraph 1, to the extent consistent with the interests and welfare of the public.

4. If the Sheriff and County recommend reduction of MCCDA staff assigned to pretrial services below the level specified in Paragraph 1, it shall notify MCCDA in writing not less than 30 days before the proposed implementation of that change, and shall meet and confer with MCCDA representatives. If the parties are unable to resolve the issues within 60 days of the date notification was sent to MCCDA, MCCDA will have the opportunity to arbitrate the reduction in staffing according to the procedures set forth in Article 20 of the MCCDA Collective Bargaining Agreement by proceeding directly to Step III: Arbitration. If MCCDA elects to arbitrate the County's decision, written notice of the intent to arbitrate must be issued to the County within the 60 day period specified above. In the event such notice of proposed implementation is issued, the minimum staffing specified in Paragraph 1 shall remain in place during the pendency of the meeting and arbitration proceedings, unless otherwise mutually agreed in writing. The arbitrator selected to hear the grievance shall be asked to determine whether the reduction in staff recommended by the County or the status quo better serves the interests and welfare of the public. If the arbitrator finds that the County's recommended staffing level better serves the interest and welfare of the public, the County may immediately implement its recommendation. If the arbitrator finds that the maintenance of the existing staffing level better serves the interest and welfare of the public, the County will not implement its recommendation. The arbitration shall be treated for all purposes as a contract grievance arbitration under Article 20. The arbitrator may retain jurisdiction for so long as necessary to implement such remedy.

5. The County specifically agrees that it shall not challenge the authority of the arbitrator to render a decision within the scope of arbitral authority set forth in Paragraph 4, above on the grounds that his decision may require consideration of topics which might be considered permissive for bargaining. To the extent that such topics are raised in the course of the arbitration proceeding, the County specifically waives any right which may exist to preclude the arbitrator from issuing a decision in favor of MCCDA based upon the permissive nature of any proposals or proposed remedies.

It is understood and agreed that this Agreement is not intended to limit the County's right to make future budgetary decisions or the MCSO's right to make operational decisions which may affect the number of MCCDA employees assigned to the Pretrial Services Program; however, the County will not attempt to transfer any MCCDA bargaining unit work without first satisfying its bargaining obligations under the Oregon Public Employees Collective Bargaining Act.

6. The procedures reflected herein shall be in lieu of any PECBA bargaining rights under ORS 243.672(1) (e) that might otherwise be triggered by staffing changes to the County's pretrial supervision programs referenced in Paragraph 4; however, nothing in this Agreement shall be construed as a waiver of any other PECBA rights (including rights under Paragraphs 1(a) or 1(b) of ORS 243.672) or bargaining rights on any subject other than the changes to staffing of County pretrial supervision services referenced in Paragraph 4.

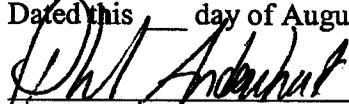
7. The County will pay \$750,000 to MCCDA members as follows: \$375,000 as wages (subject to FICA, PERS, tax withholding and other incidental roll-ups) and \$375,000 into the MCCDA member VEBA accounts. The wages and VEBA contributions awarded shall be divided equally among all of the MCCDA bargaining unit employees, including those on paid and unpaid leaves of absence, employed by the County on the first day of the payroll period following implementation of this Agreement. The County shall make the required wage payments and VEBA contributions to the employees on the list no later than the second pay period following receipt of the list.

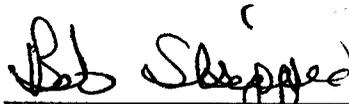
8. If the MCCDA members are returned to the Close Street program on a date other than the dates specified in Paragraph 1, above, the total award to MCCDA members shall be adjusted according to the stipulations set out in Appendices B and C.

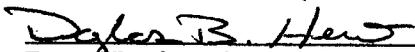
9. Within 30 days after the signing of this Agreement, if the Agreement has been properly ratified by MCCDA Executive Board and approved by the Board of County Commissioners, the Association will notify the Employment Relations Board that Case No. UP-58-05 has been settled, and the matter may be dismissed without prejudice or costs to either party. Furthermore, the parties mutually agree to release any and all claims that might be asserted based on the facts alleged in the ULP charge filed in that case.

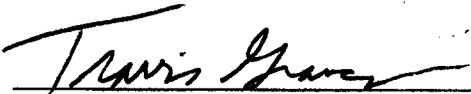
10. Any disagreements over the scope, application, or implementation of this Agreement shall be resolved according to the grievance procedures set forth in Article 20 of the MCCDA Collective Bargaining Agreement in effect at the time of the filing of the grievance.

Dated this \_\_\_\_\_ day of August, 2008.

  
\_\_\_\_\_  
Phil Anderchuk, President  
MCCDA

  
\_\_\_\_\_  
Robert Skipper, Sheriff

  
\_\_\_\_\_  
Doug Hewitt, Vice-President  
MCCDA

  
\_\_\_\_\_  
Travis Graves, Human Resources Director  
Multnomah County

**APPENDIX A**  
**ROTATION ASSIGNMENTS**

The following incumbents will be offered the opportunity to complete assignments providing pretrial supervision and monitoring services for out-of-custody defendants awaiting trial through the end of the customary four year rotation as set forth below:

<u>DEPUTY</u>	<u>END OF ROTATION</u>
William King	December 31, 2011
Adam Levin	December 31, 2011
Rawn Stone	December 31, 2011
Larry Wenzel	December 31, 2011
Steven Gilliam	December 31, 2011

**APPENDIX B**

## AVERAGE WAGE RATES

In the event the Corrections Sergeant or Corrections Deputies are not returned to the Close Street program on the dates set forth in Paragraph 1 of the Agreement, the average hourly wage rates to be used in computing damages required by the orders of the Employment Relations Board in Case No. UP-58-05 shall be as follows:

<u>Fiscal Year</u>	<u>Corrections Deputies Hourly</u>	<u>Corrections Sergeant Hourly</u>
7/1/06 – 6/30/07	\$26.74	\$32.92
7/1/07 – 6/30/08	TO BE DETERMINED	
7/1/08 – 6/30/09	TO BE DETERMINED	

**NOTE: Final wage adjustments for 7/1/07 forward will be determined following issuance of interest arbitration award by Arbitrator Boedecker.**

## APPENDIX C

The \$375,000 wages plus \$375,000 VEBA contributions only cover damages attributable to the period of time from October 18, 2005 through October 1, 2008 and October 15, 2008, as described in Paragraph 1 of the Agreement. In the event the Corrections Sergeant or Corrections Deputies are not returned to the Close Street program on the dates set forth in Paragraph 1, the total award to members required under Paragraph 7 will be adjusted according to the following stipulations:

**Stipulation 1:** Any lost overtime calculations shall be based upon historical net annual work hours of 1610 for Corrections Deputies and 1221 for Sergeants.

**Stipulation 2:** Because the parties cannot determine how individual assignments would have been rebid in the time since the unlawful unilateral transfer of CSS work by the County, average wage rates will be used in all damage calculations, as set forth in Appendix B above, with of this Agreement. Wages after June 30, 2007 will be adjusted in accordance with the pending interest arbitration decision of Arbitrator Katrina Boedecker; wages after June 30, 2008 will be adjusted by an additional 3.8%

**Stipulation 3:** In lieu of a shift-by-shift analysis of the staffing for each day since October 17, 2005, the parties agree that for overtime calculation purposes they will reduce any figure determined to be the amount of overtime (in accordance with the Order of the Employment Relations Board in Case No. UP-58-05) by 2 percent, to account for fully staffed or overstaffed posts.

**Stipulation 4:** As the *quid pro quo* for the County's agreement to restore the positions to MCCDA under this Agreement, the adjustment shall be equal to 50 percent of the lost overtime caused by the displacement of MCCDA members calculated on a daily basis from CSS from October 1, 2008 or October 15, 2008, to the date the Corrections Deputies and Sergeant are reassigned to the Pretrial Services Program, as required under Paragraph 1 of this Agreement. The 50 percent reduction will be computed after the adjustment required under Stipulation 2, above.

**Stipulation 5:** MCCDA further agrees that 50% of the total lost overtime award will be applied to employee VEBA accounts, in accordance with the method described above.