

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 04-147

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

The Multnomah County Board of Commissioners Finds:

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

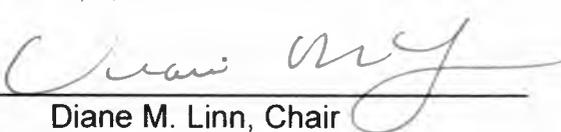
The Multnomah County Board of Commissioners Resolves:

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

ADOPTED this 14th day of October, 2004.



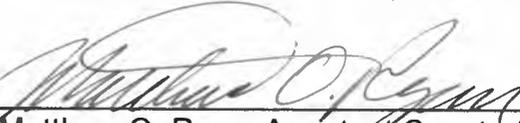
BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 

Matthew O. Ryan, Assistant County Attorney

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

RECITALS

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

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

1. USE OF PREMISES

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

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

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

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

1.3.1 Limits on Use.

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

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

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

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

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

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

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

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

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

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

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

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

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

2. RENT

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

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

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

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

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

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

3. TAXES.

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

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

4. MAINTENANCE AND OPERATIONS.

4.1 County's Obligations.

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

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

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

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

4.2 Point West's Obligations.

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

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

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

5. POINT WEST'S OTHER OBLIGATIONS

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

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

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

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

5.4 Utilities and Services.

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

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

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

5.6 Compliance with Laws.

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

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

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

6. COUNTY AUTHORITY

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

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

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

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

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

SECTION 7- ENVIRONMENTAL OBLIGATIONS OF POINT WEST

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

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

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

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

8. INSURANCE.

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

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

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

9. ALTERATIONS

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

10. TERMINATION

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

10.2 Point West's Personal Property.

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

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

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

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

SECTION 11 - DEFAULT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 12- ASSIGNMENT, SUBLEASE AND TRANSFER

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

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

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

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

13. MISCELLANEOUS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

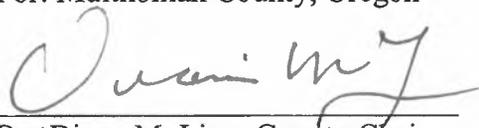
extend to the heirs, legal representatives, successors and, so far as the terms of this Lease permit, successors and assigns of the parties hereto. The words "County" and "Point West" and their accompanying verbs or pronouns, wherever used in this Lease, shall apply equally to all persons, firms, or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

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

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

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

For: Multnomah County, Oregon



By: Diane M. Linn, County Chair

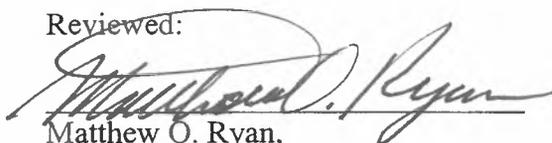
For: Point West Credit Union



By: Teri Piteck

Title: VP of Operations

Reviewed:



Matthew O. Ryan,
Assistant County Attorney

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

EXHIBIT A
The County ATM Facilities List

Multnomah County Courthouse
1021 SW 4th Avenue
Portland, OR 97204

Justice Center
1120 SW 3rd Avenue
Portland, OR 97204

Gladys McCoy Building
426 SW Stark Street
Portland, OR 97204

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

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

Multnomah Building
501 SE Hawthorne Blvd.
Portland, OR 97214

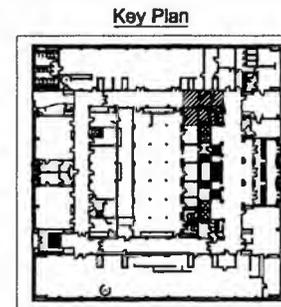
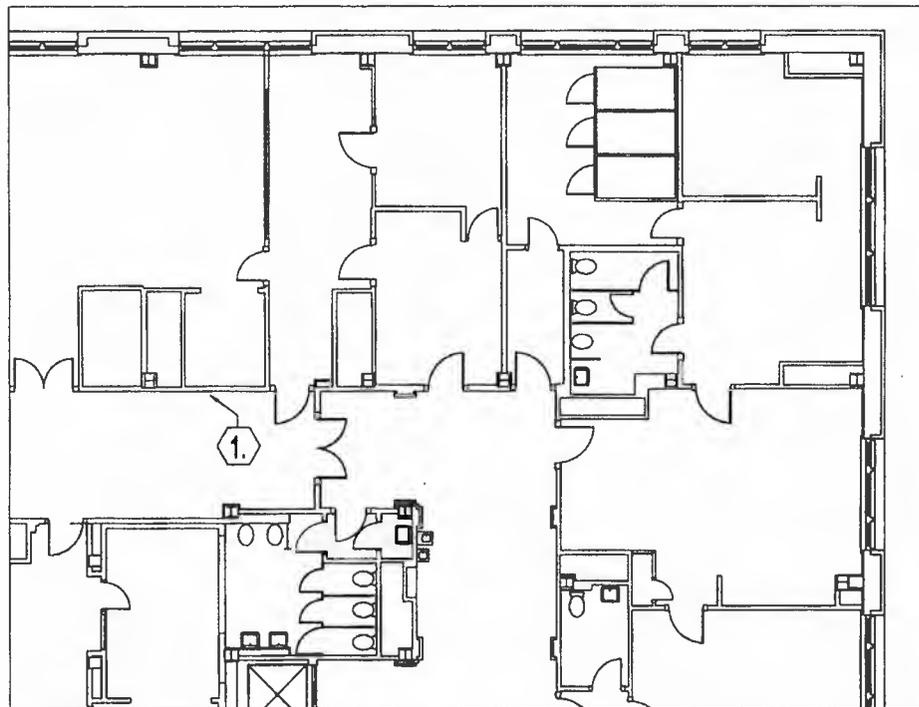
Occupant Information

① Point West Credit Union

Multnomah County Court House - 101

1021 SW 4th Ave.
Portland, Oregon 97204

EXHIBIT B-1



First Floor

Measured by: Mary Nguyen
Date: 15 March 2004

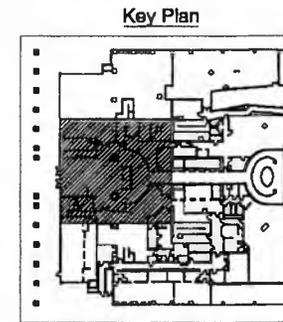
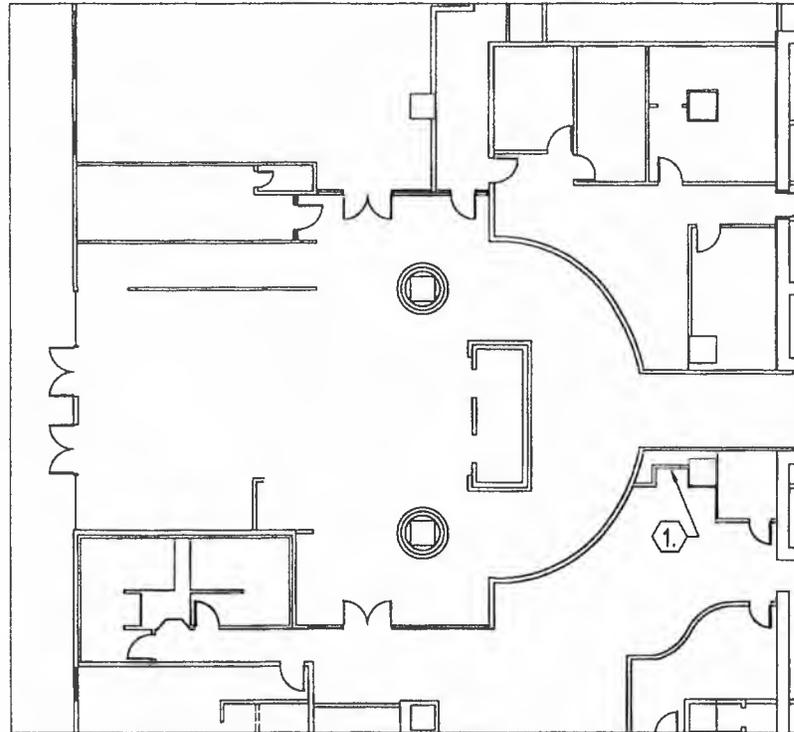


Occupant Information

① Point West Credit Union

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

EXHIBIT B-2



Second Floor

Measured by: Mary Nguyen
Date: 15 March 2004

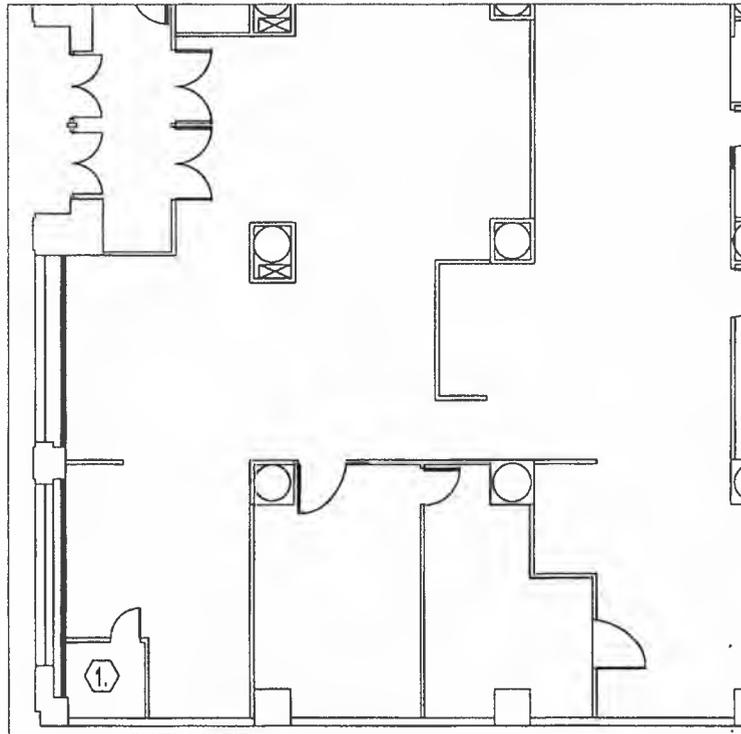


Occupant Information

① Point West Credit Union

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

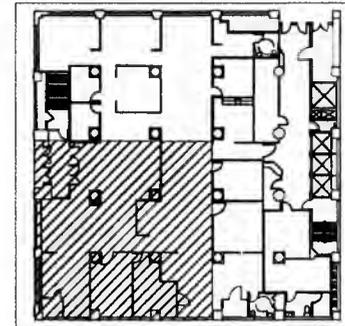
EXHIBIT B-3



First Floor

Measured by: Mary Nguyen
Date: 18 March 2004

Key Plan



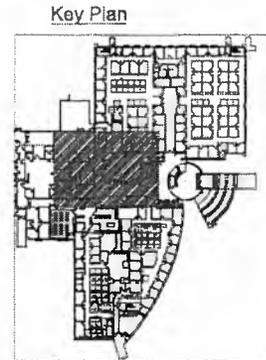
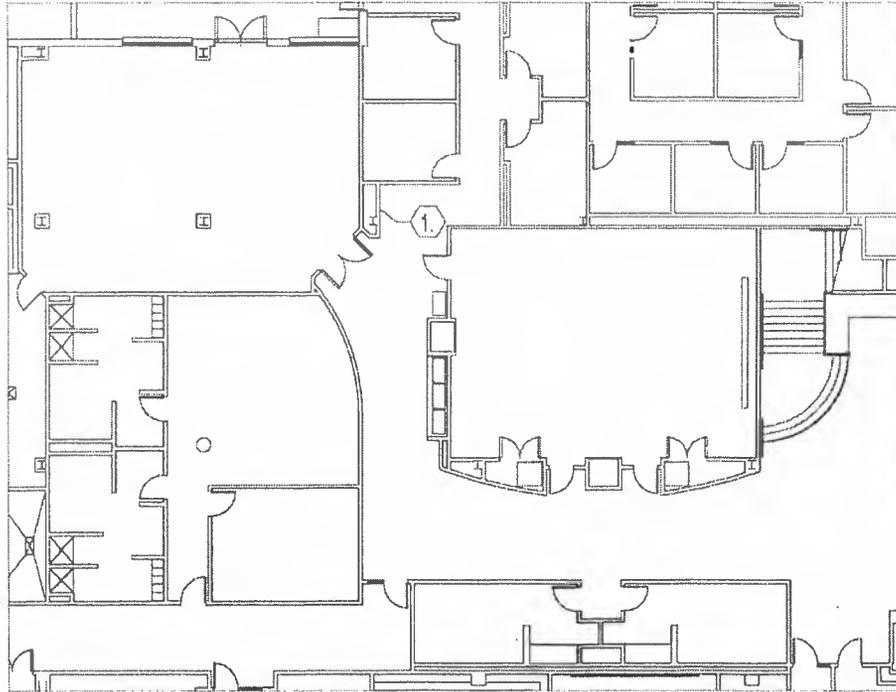
Occupant Information

① Point West Credit Union

Juvenile Justice Center - 311

1401 NE 68th Avenue
Portland, OR 97213

EXHIBIT B-4



First Floor

Measured by: Mary Nguyen
Date: 17 March 2004



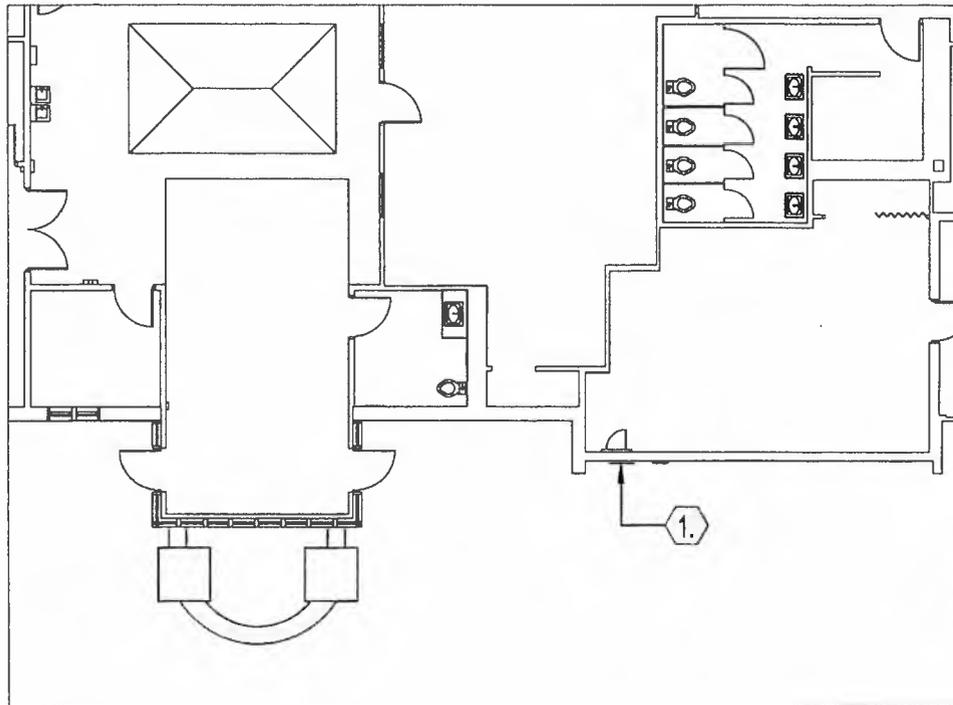
Tenant Information

① Point West Credit Union

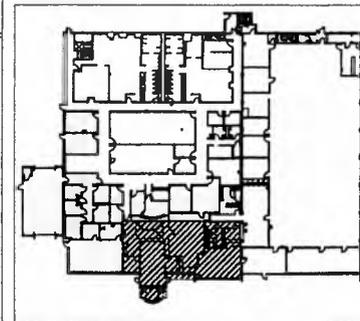
Penumbra Kelly Building

4747 E. Burnside Street
Portland, OR 97214

EXHIBIT B-5



Key Plan



First Floor

Measured by: Mary Nguyen
Date: 17 March 2004



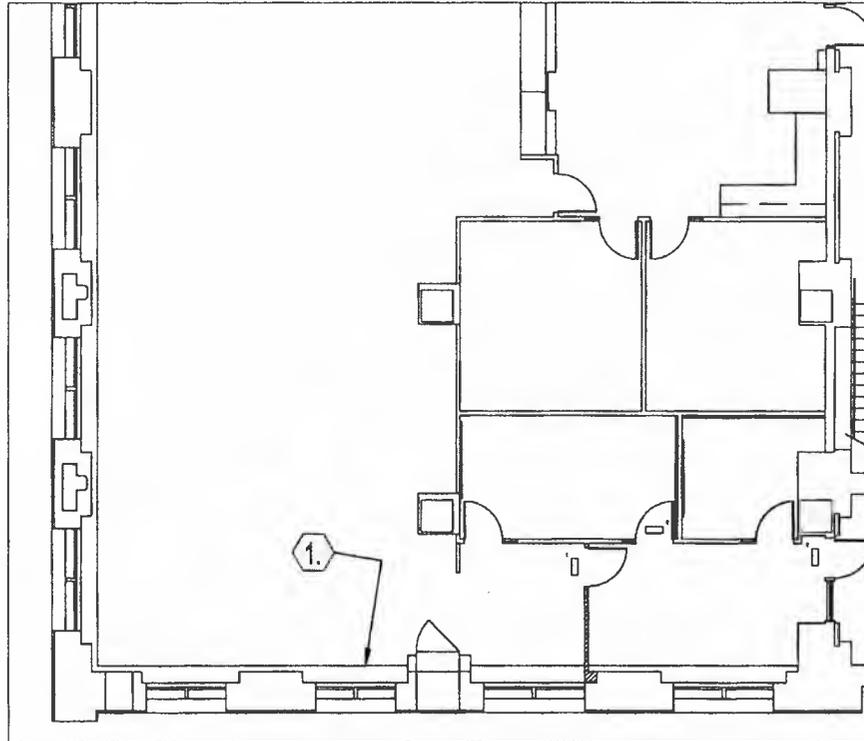
Occupant Information

① Point West Credit Union

Multnomah Building - 503

501 SE Hawthorne Blvd.
Portland, Oregon 97214

EXHIBIT B-6



First Floor

Measured by: Mary Nguyen
Date: 15 March 2004



Key Plan

