

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 99-173

Authorizing Execution of Lease Agreement for Certain Real Property at 1415 SE 122nd for Continued Operation of the Adult Community Justice East Probation and Parole Office

The Multnomah County Board of Commissioners Finds:

- a) The Multnomah County Adult Community Justice provides resources to clients in the East Portland area and immediately surrounding areas.
- b) The existing space has been the location of Adult Community Justice East Probation and Parole Office since 1992, when responsibility for Probation Services was assigned from Oregon Corrections to Multnomah County Corrections.
- c) The existing space has been identified as adequate to continue providing Adult Community Justice services for the next ten years, with particular concern for the type of services provided in a Probation and Parole Office, and the difficulty of siting such a facility in an urban setting.
- d) The premises described in the attached Lease Agreement before the Board this date are those leased for the past ten years, and have been determined to be available at a reasonable rental for the additional ten years, at a reasonable rate with minimal annual increases in the rental.
- e) It appears that the lease of the premises described in the Lease Agreement before the Board this date will benefit Multnomah County.

The Multnomah County Board of Commissioners Resolves:

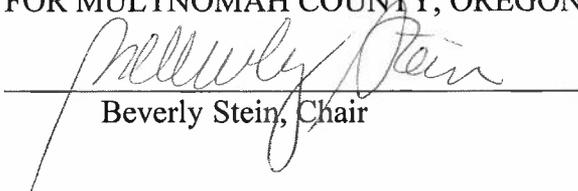
1. The Chair of the Multnomah County Board of Commissioners is authorized and directed to execute the attached Lease Agreement before the Board this date and any other documents required for the completion of this lease on behalf of Multnomah County.

Adopted this 9th day of September, 1999.



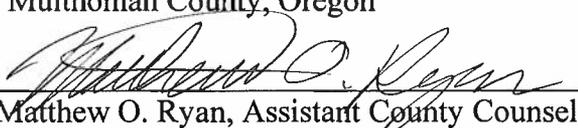
REVIEWED:

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Beverly Stein, Chair

Thomas Sponsler, County Counsel
For Multnomah County, Oregon

By


Matthew O. Ryan, Assistant County Counsel

LEASE

This lease, dated September _____, 1999, is between Lynco Properties (Lessor) and MUTNOMAH COUNTY acting by and through the Department of Corrections (Lessee).

Lessor hereby leases to Lessee and Lessee takes from Lessor the Premises described as follows:

4,972 Square feet of office space commonly known as "The Annex", 1415 S.E. 122 Portland, Oregon, Multnomah County.

The parties agree that the terms of this lease are as follows:

1. **Term.** The term of this lease shall commence on October 1, 1999 and shall continue through September 30, 2009.
2. **Rent.** Lessee shall pay rent by the 1st day of each month. Monthly base rent shall be as follows:

<u>Lease Period</u>	<u>Rent</u>
10/01/99 - 09/30/00	\$ 5,286.90
10/01/00 - 09/30/01	\$ 5,352.98
10/01/01 - 09/30/02	\$ 5,419.90
10/01/02 - 09/30/03	\$ 5,487.64
10/01/03 - 09/30/04	\$ 5,556.24
10/01/04 - 09/30/05	\$ 5,625.69
10/01/05 - 09/30/06	\$ 5,696.01
10/01/06 - 09/30/07	\$ 5,767.21
10/01/07 - 09/30/08	\$ 5,839.30
10/01/08 - 09/30/09	\$ 5,912.30

3. **Use of Premises.** Lessee may use the Premises for business offices, storage, and other lawful purposes including but not limited to functions related to the conduct of its business as a County agency.
4. **Parking.** Lessee, its employees, and clientele together with other County Lessees shall have the right to park in a prorata share of the spaces in the parking lot adjacent to the Leased Premises.
5. **Lessor's Covenants.**
 - (a) Lessor covenants that it has the right to make this Lease; that possession of the Premises will be delivered to Lessee free of other tenants and of conflicting claims; that the use of the Premises by Lessee for the specific uses set forth in Paragraph 4 is not in violation of any federal, state or

local statute, regulation or ordinance, including the acknowledged comprehensive land use plans and regulations of the city or county in which the Premises are located; and that on paying the rent and performing its covenants of this Lease, Lessee may enjoy the rights granted by this lease free from rightful interference by any third party.

- (b) Lessor covenants that the Premises comply with Handicapped Access and other provisions of the State Building Code, including requirements for handicapped parking, at the inception date of this Lease.
- (c) Lessor hereby discloses that the building was constructed prior to January 1, 1978 when the building industry had not generally refrained from using materials containing asbestos containing materials (ACM), and covenants that Premises have been inspected and certified as safe from all friable ACM, in accordance with applicable law and regulations.
- (d) Notwithstanding Lessor's covenant herein, in the event that any asbestos related health hazard is detected in the Premises as determined under applicable law and/or regulations, Lessee shall have the right to cancel this Lease with 10 days' written notice to Lessor or, at Lessee's sole option, demand that Lessor take prompt corrective action to protect Lessee and its employees occupying the Premises. Lessor shall perform such repair, renovation and asbestos abatement work at Lessor's sole cost and expense, and in strict compliance with applicable law and regulations governing asbestos abatement work. Lessee shall be entitled to any and all costs related to disruptions caused by such asbestos abatement work, including but not limited to moving costs, temporary rent for relocation and consequential damages. Such disruption costs may be reimbursed through rent abatement following reoccupancy of the Premises, where applicable. Lessor shall indemnify and hold Lessee harmless in the event of a discovery of asbestos related health hazards in accordance with the Insurance paragraph contained herein.

6. Improvements and Alterations. Lessee may place fixtures, partitions, personal property and the like in the Premises and may make nonstructural improvements and alterations at its own expense. Lessee may, but shall not be required to, remove such items at the end of the lease term.

7. Maintenance and Repair of Premises.

- (a) Lessor shall perform all necessary maintenance and repairs to the structure, foundation, exterior walls, roof, doors and windows, elevators, emergency lighting, and Lessor-provided fire extinguishers, sidewalks, and parking area which are located on the Premises. Lessor shall maintain the premises in a hazard free condition and shall repair, or replace, if necessary and at Lessor's sole expense, the heating, air conditioning, plumbing, electrical, lighting systems in the Premises, obtaining required

permits and inspections from Codes enforcement authorities, and shall keep the Premises, improvements, grounds, and landscaping in good repair and appearance replacing dead, damaged or diseased plant materials when necessary. Lessor shall perform interior touch-up and repainting as necessary. Carpets shall be repaired and replaced as necessary by Lessor. Lessor shall furnish, install, and replace all exterior bulbs, ballasts, and fluorescent tubes and all interior ballasts.

- (b) Should Lessor fail to maintain the Premises in accordance with above Requirements, and after notification to Lessor, Lessee may contract for necessary labor, equipment and material to bring Premises within those requirements and may deduct related costs from future rent payments.
- (c) Lessee shall take good care of the interior of the Premises and at the expiration of the term surrender the Premises in as good a condition as at the commencement of this Lease, excepting only reasonable wear, permitted alterations, and damage by fire or other casualty.

8. Heating and Ventilating and Air Conditioning Standards.

- (a) The HVAC system shall be balanced as to temperature, humidity and air motion. The system shall produce an effective temperature which creates a sensation of comfort to the office occupants. Operating hours of the building shall be regular working days (Monday through Friday), holidays excepted, commencing at 7:00 a.m. and ending at 6:00 p.m.
- (b) System parameters: The system shall be able to maintain 68-73 degrees F during average heating season and 75-80 degrees F during average cooling season. For extreme outside temperature (less than 20 degrees F or greater than 95 degrees F) the system shall maintain a minimum of 65 F heating and a maximum 85 degrees F cooling. Under no circumstance will the interior of the building be allowed to be cooler than 40 degrees F or warmer than 95 degrees F during non-business hours. The air circulation system shall be designed with adequate numbers of supply and return air registers to maintain uniform temperature within occupied areas. All enclosed rooms, with the exception of janitor closets, shall be provided with both supply and return. System shall be capable of providing continuous air circulation throughout occupied areas even when neither heating nor air conditioning is operating. Adequate air filtering and maintenance shall be provided.
- (c) System Maintenance: The Lessor shall be responsible for system maintenance to the standards set forth above. Should Lessor fail to maintain the system in accordance with above standards, and after notification to Lessor, Lessee may contract for necessary labor, deduct related costs from future rent payments. Lessor further agrees to maintain

a preventive maintenance contract with a qualified HVAC contractor with a minimum of two visits per year.

9. Services and Utilities.

- (a) Lessor will cause the utilities and services listed below to be finished to the Premises. Charges shall be paid as indicated:

<u>Utility or Service</u>	Monthly Charges Paid By: <u>Lessor/Lessee</u>
Water	<u>X</u>
Sewer	<u>X</u>
Electricity	<u>X</u>
Gas	<u>X</u>
Trash Removal	<u>X</u>
Janitorial Service	<u>X</u>
Janitorial Supplies	<u>X</u>
Window Washing	<u>X</u>

10. Insurance.

- (a) Lessor shall obtain and keep in effect during the term of this lease, a Comprehensive General Liability policy or a Commercial General Liability policy for the leased Premises, covering personal injury and property damage from an insurance company authorized to do business in the Multnomah County. Coverage limits shall not be less than \$1,000,000 combined single limit per occurrence. Should the terms and conditions of Lessor's insurance coverage change during the term of this lease, Lessor reserves the right to require that Lessor replace any coverages omitted or deleted by the change. There shall be no cancellation, material change or intent not to renew insurance coverage without 30 days prior notice to Lessee.
- (b) Lessor shall indemnify, defend and hold harmless the ~~Department of Corrections~~ ^{Lessee}, including its officers, employees and agents, from all claims, suits, or actions of any nature resulting from the acts or omissions of the Lessor, its officers, contractors, employees or agents under this lease. ^{Lessee}
- (c) The insurance policy required by this lease shall name the ~~Department of Corrections~~ ^{Lessee}, including its officers, employees and agents, as additional insureds, as it is related to and limited by Lessor's indemnification of Lessee contained hereinabove.

- (d) As evidence of the insurance coverage required by this lease and prior to commencement date of this lease, Lessor shall furnish to Lessee an original certificate of insurance naming Lessee as additional insured and as certificate holder. Valid certificates of insurance shall be provided to Lessee as changes occur or annually throughout the term of this lease.
11. Lessee's Liability. Lessee agrees to be responsible for any damage or third party liability which may arise from its occupancy and use of the leased Premises, subject to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260 through 30.300, and within the limits in ORS 30.275.
12. Statement of Self-Insurance. Lessee is self-insured for liability and will provide a letter to Lessor stating that fact and that Multnomah County will provide coverage as ordered by statute, to the Lessor, in satisfaction of all of Multnomah County's insurance requirements under this lease.
13. Waiver of Subrogation. Neither Lessor nor Lessee shall be liable to the other for their own loss arising out of damage to or destruction of the leased Premises or the Facility or the contents thereof, when such loss is caused by any of the perils which are or could be included within or insured against by a standard form of fire insurance with extended coverage, including sprinkler leakage insurance, if any. All such claims for any and all loss, however caused, hereby are waived. Said absence of liability shall exist whether or not the damage or destruction is caused by the negligence of either Lessor or Lessee or by any of their respective agents, servants or employees. Each party shall fully provide its own property damage insurance protection at its own expense, and that each party shall look to its respective insurance carriers for reimbursement of any such loss, and further, that the insurance carriers involved shall not be entitled to subrogation under any circumstance.
14. Casualty Damage. If the Premises or improvements thereon are damaged or destroyed by fire or other casualty to such a degree that the Premises are unusable for the purpose leased, and if repairs cannot reasonably be made within 90 days, Lessee may elect to cancel this Lease. Lessor shall in all cases promptly repair the damage or ascertain whether repairs can be made within 90 days, and shall promptly notify Lessee of the time required to complete the necessary repairs or reconstruction. If Lessor's estimate for repair is greater than 90 days, then lessee, upon receiving said estimate will have 20 days after such notice in which to cancel this lease. Following damage, and including any period of repair, Lessee's rental obligation shall be reduced to the extent the Premises cannot reasonably be used by Lessee.
15. Assignment and Subletting. Lessee shall have the right to assign this Lease or sublet the Premises to another County agency or to other parties with Lessor's consent, which shall not be unreasonably withheld.

16. Termination by Lessee. It is understood and agreed that Lessee may cancel this agreement, effective on any June 30 during the term hereof, beginning June 30, 2000, by giving Lessor not less than three months written notice of such cancellation, if the program funding to maintain the program to be operated in the premises under this agreement is not provided by the Multnomah County Board of Commissioners. The provisions of this cancellation clause will not be used for the purpose of leasing alternative space where the program would be provided at the same level as in the premises.
17. Termination by Lessor. It is understood and agreed that Lessor may cancel this agreement at any time by giving Lessee not less than six months written notice of such cancellation
18. Default. Neither party shall be in default under this Lease until written notice of its unperformed obligation has been given and that obligation remains unperformed after notice for 15 days in the case of a payment or for 30 days in the case of other obligations. If this obligation cannot be performed within the 30-day period, there shall be no default if the responsible party commences a good faith effort to perform the obligation within such period and continues diligently to complete performance. In case of default the non-defaulting party may terminate this Lease with 30 days notice in writing to the defaulting party, shall be entitled to recover damages or any other remedy provided by applicable laws, or may elect to perform the defaulting party's.
19. Attorneys' Fees. In the event a suit or action of any kind is instituted on behalf of either party to obtain performance under this Lease, or to enforce any rights or obligations arising from this Lease, the prevailing party shall be entitled to such additional sums as the court may adjudge reasonable attorney fees and all costs and disbursement incurred therein and on any appeal.
20. Property Tax Savings. In addition to the rental set forth herein, Lessee agrees to pay the real property taxes levied and assessed against the premises during the term of this agreement. Lessee intends to seek exemption from such real property taxes pursuant to ORS 307.112. Any such real property taxes so abated shall accrue to the benefit of Lessee. The parties acknowledge that the rent payable by Lessee is below market gross rental by an amount at least equal to such real property taxes.
21. Transfer of Lessor's Interest. In the event of any transfer or transfers of Lessor's interest in the premises, other than a transfer for security purposes only, the transferor shall be relieved of any and all obligations and liabilities on the part of Lessor accruing from and after the date of such transfer only upon the transferee's assumption, subject to the limitations of this paragraph, of all the covenants, agreements and conditions in this Lease to be performed by the Lessor. The Lessee shall recognize the transfer and attorn to the transferee only if the Lessee has received the identity and the business address of the transferee. The Lessor's covenants and agreements in this lease shall be binding on the Lessor, its

successors and assigns, only during and in respect of their respective successive periods of ownership, subject, however, to the provision of written notice and the transferee's assumption of all obligations as provided in this paragraph.

22. Year 2000 Compliance. Landlord covenants that the premises and all sensitive embedded microprocessors, computer systems, and other devices related to the operation of the premises are year 2000 compliant and will continue to work properly on or after January 1, 2000.
23. MERGER.

THIS LEASE CONSTITUTES THE ENTIRE LEASE BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS LEASE SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, EITHER ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS LEASE. LESSOR, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT LESSOR HAS READ THIS LEASE, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

This Lease Agreement shall not become effective and shall not be binding upon Multnomah County or any agency thereof until it has been executed, in the signature spaces provided below, by all parties to this agreement, including those whose approval is required.

The parties have executed this Lease the _____ day of September, 1999.

LESSOR: LYNCO PROPERTIES

By _____

LESSEE: MULTNOMAH COUNTY

By  _____
Beverly Stein, County Chair

Reviewed by _____
County Counsel 

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-6 DATE 9/9/99
DEB BOGSTAD
BOARD CLERK