

**SPEAKER SIGN UP CARDS**

DATE 9-30-99

NAME ROGER TROEN

ADDRESS 4226 N. MONTANA AVE  
PORTLAND 97217

PHONE 287-7894

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC ANIMAL CONTROL R-1  
GIVE TO BOARD CLERK



Multnomah County Oregon

# Board of Commissioners & Agenda

connecting citizens with information and services

## BOARD OF COMMISSIONERS

### Beverly Stein, Chair

1120 SW Fifth Avenue, Suite 1515  
Portland, Or 97204-1914

Phone: (503) 248-3308 FAX (503) 248-3093

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

### Diane Linn, Commission Dist. 1

1120 SW Fifth Avenue, Suite 1500  
Portland, Or 97204-1914

Phone: (503) 248-5220 FAX (503) 248-5440

Email: [diane.m.linn@co.multnomah.or.us](mailto:diane.m.linn@co.multnomah.or.us)

### Serena Cruz, Commission Dist. 2

1120 SW Fifth Avenue, Suite 1500  
Portland, Or 97204-1914

Phone: (503) 248-5219 FAX (503) 248-5440

Email: [serena.m.cruz@co.multnomah.or.us](mailto:serena.m.cruz@co.multnomah.or.us)

### Lisa Naito, Commission Dist. 3

1120 SW Fifth Avenue, Suite 1500  
Portland, Or 97204-1914

Phone: (503) 248-5217 FAX (503) 248-5262

Email: [lisa.h.naito@co.multnomah.or.us](mailto:lisa.h.naito@co.multnomah.or.us)

### Sharron Kelley, Commission Dist. 4

1120 SW Fifth Avenue, Suite 1500  
Portland, Or 97204-1914

Phone: (503) 248-5213 FAX (503) 248-5262

Email: [sharron.e.kelley@co.multnomah.or.us](mailto:sharron.e.kelley@co.multnomah.or.us)

**ANY QUESTIONS? CALL BOARD  
CLERK DEB BOGSTAD @ 248-3277**

Email: [deborah.l.bogstad@co.multnomah.or.us](mailto:deborah.l.bogstad@co.multnomah.or.us)

INDIVIDUALS WITH DISABILITIES  
PLEASE CALL THE BOARD CLERK  
AT 248-3277, OR MULTNOMAH  
COUNTY TDD PHONE 248-5040, FOR  
INFORMATION ON AVAILABLE  
SERVICES AND ACCESSIBILITY.

## SEPTEMBER 30, 1999

## BOARD MEETING

### FASTLOOK AGENDA ITEMS OF INTEREST

Pg. 2	9:30 a.m. Thursday Appointment to the Merit System Civil Service Council
Pg. 2	9:30 a.m. Thursday Opportunity for Public Comment on Non-Agenda Matters
Pg. 2	9:35 a.m. Thursday Report Hearings Officer Decisions and Set Hearing Dates
Pg. 3	9:40 a.m. Thursday Hearing and Resolution Transferring Tax Foreclosed Property to USDA Forest Service
Pg. 3	9:45 a.m. Thursday Budget Modifications for Student Bus Pass Pilot Program
Pg. 3	10:00 a.m. Thursday Briefing on Transitioning Offenders from Custody to the Community
*	<b>Check the County Web Site:</b> <a href="http://www.co.multnomah.or.us/">http://www.co.multnomah.or.us/</a>

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

Thursday, 9:30 AM, (LIVE) Channel 30

Friday, 10:00 PM, Channel 30

Sunday, 1:00 PM, Channel 30

Produced through Multnomah Community  
Television

Thursday, September 30, 1999 - 9:30 AM  
Multnomah County Courthouse, Boardroom 602  
1021 SW Fourth Avenue, Portland

## **REGULAR MEETING**

### **CONSENT CALENDAR**

#### **NON-DEPARTMENTAL**

- C-1 Appointment of Linda Rasmussen to the MERIT SYSTEM CIVIL SERVICE COUNCIL

#### **DEPARTMENT OF HEALTH**

- C-2 Amendment 4 to Intergovernmental Agreement 200347 with Oregon Health Sciences University for Hospital Services for County's Correction System Inmates

#### **DEPARTMENT OF COMMUNITY AND FAMILY SERVICES**

- C-3 Amendment 5 to Intergovernmental Revenue Agreement 103535 with the City of Gresham for Transitional Housing, Bilingual Case Management, and Emergency Housing Vouchers

### **REGULAR AGENDA**

#### **PUBLIC COMMENT**

- R-1 Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.

#### **DEPARTMENT OF ENVIRONMENTAL SERVICES**

- R-2 Report the Hearings Officer Decision Regarding Denial of SEC 39-98 for Property Located in the Commercial Forest Use Zoning District and Requesting a POTENTIAL DE NOVO HEARING DATE OF 11:00 A.M., THURSDAY, OCTOBER 7, 1999
- R-3 Report the Hearings Officer Decision Regarding Denial of WRG 16-98 and HV 16-98 for Property Located in the Multiple Use Agriculture (MUA-20)

and Willamette River Greenway Zoning District and Requesting a DE NOVO  
HEARING DATE OF 11:00 A.M., THURSDAY, OCTOBER 28, 1999

- R-4 RESOLUTION Approving Transfer of Two Tax Foreclosed Properties to the United States of America c/o U.S. Department of Agriculture Forest Service, for Public Purposes

**NON-DEPARTMENTAL**

- R-5 Budget Modification Dist. 2 01 Authorizing \$77,000 General Fund Contingency Draw to Pay for Multnomah County's Share of the Sisters in Action for Power, Multnomah County, Portland Public Schools and Tri-Met Bus Pass Pilot Program

- R-6 Budget Modification Dist. 2 02 Authorizing \$75,000 General Fund Contingency Draw to Provide a Loan to Portland Public Schools for its Share of the Sisters in Action for Power, Multnomah County, Portland Public Schools and Tri-Met Bus Pass Pilot Program

**COMMISSIONER COMMENT/LEGISLATIVE ISSUES**

- R-7 Opportunity (as Time Allows) for Commissioners to Comment on Non-Agenda Items or to Discuss Legislative Issues.
- 

Thursday, September 30, 1999 - 10:00 AM  
**(OR IMMEDIATELY FOLLOWING REGULAR MEETING)**  
Multnomah County Courthouse, Boardroom 602  
1021 SW Fourth Avenue, Portland

**BOARD BRIEFING**

- B-1 Transitioning Offenders from Custody to the Community. Presented by Elyse Clawson, Kate Desmond, Joanne Fuller, Michael Haines, Carl Jaber and John Miller. 1 HOUR REQUESTED.



## Beverly Stein, Multnomah County Chair

Room 1515, Portland Building  
1120 S.W. Fifth Avenue  
Portland, Oregon 97204

Phone: (503) 248-3308  
FAX: (503) 248-3093  
E-Mail: [mult.chair@co.multnomah.or.us](mailto:mult.chair@co.multnomah.or.us)

### MEMORANDUM

TO: Commissioner Diane Linn  
Commissioner Serena Cruz  
Commissioner Lisa Naito  
Commissioner Sharron Kelley  
Office of the Board Clerk \*

FROM: R. Lynn Martin

DATE: June 24, 1999

RE: Beverly's Absence Board/Briefing meetings

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Chair Stein will be away from the scheduled Board/Briefing meetings on these days:

July 22  
August 31-September 2  
~~September 9~~  
September 25-October 2

If these dates should change, and they may, I will notify you.

cc: Chair's Staff

BOARD OF  
COUNTY COMMISSIONERS  
MULTNOMAH COUNTY  
OREGON  
99 JUN 24 PM 1:57



MEETING DATE: SEP 30 1999  
AGENDA NO: C-1  
ESTIMATED START TIME: 9:30

(Above Space for Board Clerk's Use ONLY)

**AGENDA PLACEMENT FORM**

**SUBJECT:** Appointment to Merit System Civil Service Council

**BOARD BRIEFING:**

**DATE REQUESTED:** \_\_\_\_\_

**REQUESTED BY:** 9/30/99

**AMOUNT OF TIME NEEDED:** Consent

**REGULAR MEETING:**

**DATE REQUESTED:** \_\_\_\_\_

**AMOUNT OF TIME NEEDED:** \_\_\_\_\_

**DEPARTMENT:** Nondepartmental

**DIVISION:** Chair's Office

**CONTACT:** Delma Farrell

**TELEPHONE #:** 218-3953

**BLDG/ROOM #:** 106/1515

**PERSON(S) MAKING PRESENTATION:**

**ACTION REQUESTED:**

INFORMATIONAL ONLY    POLICY DIRECTION    APPROVAL    OTHER

**SUGGESTED AGENDA TITLE:**

Appointment of Linda Rasmussen to the Merit System Civil Service Council

**SIGNATURES REQUIRED:**

**ELECTED OFFICIAL:** \_\_\_\_\_  
**(OR)**  
**DEPARTMENT**  
**MANAGER:** \_\_\_\_\_

*Beverly Steind*

99 SEP 30 AM 11:52  
COUNTY COMMISSIONERS  
MULTICOUNTY  
OREGON

**ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES**

**Any Questions: Call the Board Clerk @ 248-3277**

MEETING DATE: SEP 30 1999

AGENDA NO.: C-2

ESTIMATED START TIME: 9:30

(Above space for Board Clerk's Use ONLY)

**AGENDA PLACEMENT FORM**

SUBJECT: Amendment #4 to Intergovernmental Agreement with Oregon Health Sciences University

BOARD BRIEFING Date Requested: \_\_\_\_\_

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

Amount of Time Needed: \_\_\_\_\_

REGULAR MEETING Date Requested: \_\_\_\_\_

Amount of Time Needed: 5 minutes or less

DEPARTMENT: Health DIVISION: Corrections Health

CONTACT: \* Kathy Page TELEPHONE #: x83959

BLDG/ROOM #: 119/4/MED

PERSON(S) MAKING PRESENTATION: Consent Calendar

**ACTION REQUESTED:**

[ ] INFORMATIONAL ONLY [ ] POLICY DIRECTION [X] APPROVAL [ ] OTHER

**SUGGESTED AGENDA TITLE:**

Amendment #4 to Intergovernmental Agreement #200347 with Oregon Health Sciences University for hospital services for County's Correction System inmates.

10/6/99 originals to MARIANNE METZGER

CLERK OF COUNTY COMMISSIONERS  
99 SEP 23 PM 12:06  
MULTI-COUNTY  
OREGON

**SIGNATURES REQUIRED:**

ELECTED OFFICIAL: *Carmi Metzger*

Or

DEPARTMENT MANAGER: *Lillian Shug* 9-22-99

**ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES**

Any Questions: Call the Board Clerk at 248-3277



# MULTNOMAH COUNTY OREGON



HEALTH DEPARTMENT  
BUSINESS SERVICES DIVISION  
426 SW STARK, 7TH FLOOR  
PORTLAND, OREGON 97204-2394  
(503) 248-3056  
FAX (503) 248-3015  
TDD (503) 248-3816

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DIANE LINN • DISTRICT 1 COMMISSIONER  
SERENA CRUZ • DISTRICT 2 COMMISSIONER  
LISA NAITO • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## MEMORANDUM

**Date:** September 22, 1999  
**To:** Board of County Commissioners  
**Via:** Lillian Shirley, Health Department Director  
**From:** Kathy Page, Director, Corrections Health Division  
**Subject:** Amendment #4 to Contract #200347 with Oregon Health Sciences University for hospital services for Multnomah County Corrections inmates

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HONOR CULTURE, CELEBRATE DIVERSITY AND INSPIRE QUALITY

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- I. **Recommendation:** The Health Department recommends board ratification of Amendment #4 to Contract #200347 with Oregon Health Sciences University for the period November 1, 1999, through October 31, 2000.
- II. **Background /Analysis:** This agreement has been renewed annually since 1993. OHSU will provide labor and delivery, tubal ligations, and OB-related outpatient services, emergency care, and medical/surgical stabilization for the County's Correction inmates on a fee-for-service basis. The County will pay 80% of the hospital's most recently published rates. In the event patient is an Oregon Health Plan member, County will pay applicable Oregon Health Plan reimbursement. The County has a similar agreement with Portland Adventist Medical Center to provide general inpatient, outpatient and emergency services for Corrections inmates.  
  
This amendment extends the expiration date to October 31, 2000.
- III. **Financial Impact:** Expenditures are expected to total approximately \$200,000 per year. Funds have been budgeted.
- IV. **Legal Issues:** None
- V. **Controversial Issues:** None
- VI. **Link to Current County Policies:** Continuing to collaborate with community agencies in the provision of health care.
- VII. **Citizen Participation:** None
- VIII. **Other Government Participation:** None

# MULTNOMAH COUNTY CONTRACT APPROVAL FORM

(See Administrative Procedure CON-1)

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

Contract #: 200347  
Amendment #: 4

<p style="text-align: center;"><b>CLASS I</b></p> <p><input type="checkbox"/> Professional Services not to exceed \$50,000 (and not awarded by RFP or Exemption)</p> <p><input type="checkbox"/> Revenue not to exceed \$50,000 (and not awarded by RFP or Exemption)</p> <p><input type="checkbox"/> Intergovernmental Agreement (IGA) not to exceed \$50,000</p> <p style="margin-left: 20px;"><input type="checkbox"/> Expenditure</p> <p style="margin-left: 20px;"><input type="checkbox"/> Revenue</p> <p><input type="checkbox"/> Architectural &amp; Engineering not to exceed \$10,000 (for tracking purposes only)</p>	<p style="text-align: center;"><b>CLASS II</b></p> <p><input type="checkbox"/> Professional Services that exceed \$50,000 or awarded by RFP or Exemption (regardless of amount)</p> <p><input type="checkbox"/> PCRB Contract</p> <p><input type="checkbox"/> Maintenance Agreement</p> <p><input type="checkbox"/> Licensing Agreement</p> <p><input type="checkbox"/> Construction</p> <p><input type="checkbox"/> Grant</p> <p><input type="checkbox"/> Revenue that exceeds \$50,000 or awarded by RFP or Exemption (regardless of amount)</p>	<p style="text-align: center;"><b>CLASS III</b></p> <p><input checked="" type="checkbox"/> Intergovernmental Agreement (IGA) that exceeds \$50,000</p> <p style="margin-left: 20px;"><input checked="" type="checkbox"/> Expenditure</p> <p style="margin-left: 20px;"><input type="checkbox"/> Revenue</p> <p style="text-align: center;"><b>APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS</b></p> <p style="text-align: center;">AGENDA # <u>C-2</u> DATE <u>9/30/99</u></p> <p style="text-align: center;"><u>DEB BOGSTAD</u></p> <p style="text-align: center;"><b>BOARD CLERK</b></p>
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Department: Health Department Division: Corrections Health Date: 09/10/99  
 Originator: Kathy Page Phone: x83959 Bldg/Rm: 119/4/MED  
 Contact: Marianne Metzger Phone: x26207 Bldg/Rm: 160/7

Description of Contract:  
 Hospital services (inpatient labor and delivery, tubal ligations, outpatient OB-related services) for County's Correction System inmates.  
 This amendment extends term date.

RENEWAL:  PREVIOUS CONTRACT NO(S): 201273, 200445, 200076, 200347  
 RFP/BID: \_\_\_\_\_ RFP/BID DATE: \_\_\_\_\_  
 EXEMPTION NO/DATE: \_\_\_\_\_ EXEMPTION EXPIRATION DATE: \_\_\_\_\_ ORS/AR #: \_\_\_\_\_  
 CONTRACTOR IS:  MBE  WBE  ESB  QRF  N/A  NONE (Check all boxes that apply)

Contractor <u>Oregon Health Sciences University</u> Address <u>3181 SW Sam Jackson Park Road</u> <u>Portland, Oregon 97201</u> Phone _____ Employer ID# or SS# <u>93-1176109</u> Effective Date <u>Date of Execution</u> Termination Date <u>October 31, 2000</u> Original Contract Amount \$ _____ Total Amt of Previous Amendments \$ _____ Amount of Amendment \$ _____ Total Amount of Agreement \$ _____	Julie Styner, Contracts Officer 494-4390 (FAX 494-1293) MC UHN81 Dr. Paul Kirk, OB/GYN Dept Chair 494-8639 Remittance address <u>PO Box 575</u> (If different) <u>Portland, Oregon 97207-0575</u> Payment Schedule / Terms <input type="checkbox"/> Lump Sum \$ _____ <input type="checkbox"/> Due on Receipt <input checked="" type="checkbox"/> Monthly \$ <u>(invoice)</u> <input type="checkbox"/> Net 30 <input type="checkbox"/> Other \$ _____ <input type="checkbox"/> Other <input type="checkbox"/> Requirements Not to Exceed \$ _____ Encumber <input type="checkbox"/> Yes <input type="checkbox"/> No
---	--

REQUIRED SIGNATURES:

Department Manager *Killian Skully* DATE 9/22/99

Purchasing Manager \_\_\_\_\_ DATE \_\_\_\_\_  
 (Class II Contracts Only)  
 County Counsel *Thomas Spensler* DATE 9/23/99

County Chair *Dean* DATE 9/30/99

Sheriff \_\_\_\_\_ DATE \_\_\_\_\_

Contract Administration \_\_\_\_\_ DATE \_\_\_\_\_  
 (Class I, Class II Contracts only)

LGFS VENDOR CODE HS3466						DEPT REFERENCE					
LINE #	FUND	AGENCY	ORG	SUB ORG	ACTIVITY	OBJ/ REV	SUB OBJ	REP CAT	LGFS DESCRIPTION	AMOUNT	INC DEC
01	100	015	0951			6110		0399	OHSU Inmate ref		
02	100	015	0952			6110		0399	OHSU Inmate ref		
03	169	015	0975			6110		0399	OHSU Inmate ref		

Rev. 2/12/98 DIST: Original - Contract Administration, Contractor, HD Contracts Unit; CC.- HD Program Manager, Finance, HD Payables/Receivables

**AMENDMENT #4 TO  
MULTNOMAH COUNTY CONTRACT #200347**

THIS AMENDMENT TO CONTRACT #200347 is between MULTNOMAH COUNTY, hereafter "COUNTY," and the OREGON HEALTH SCIENCES UNIVERSITY, an Oregon public corporation, on behalf of itself and its University Hospital, hereafter "CONTRACTOR."

WITNESSETH:

WHEREAS, COUNTY and CONTRACTOR are parties to a certain contract dated July 1, 1996, entitled "Intergovernmental Agreement for Hospital Services for Multnomah County Corrections System Inmates" (hereafter "Contract"); and

WHEREAS, the parties mutually desire to amend said Contract in the manner hereinafter set forth:

NOW, THEREFORE, the parties agree as follows:

1. The expiration date of the Contract is changed from October 31, 1999 to October 31, 2000.
2. All other terms and conditions of the original Contract remain in effect.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized officers.

OREGON HEALTH SCIENCES UNIVERSITY

MULTNOMAH COUNTY

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

By Beverly Stein  
Beverly Stein, Multnomah County Chair  
Date 9/30/99

By Lillian Shirley  
Lillian Shirley, Health Department Director  
Date 9-22-99

By Kathy Page  
Kathy Page, Division Director  
Date 22 Sept 99

REVIEWED:

Thomas Sponsler, County Counsel for  
Multnomah County, Oregon

By Thomas Sponsler  
Katie Gaetjens, Assistant County Counsel  
Date 9/23/99

**APPROVED MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS**  
AGENDA # C-2 DATE 9/30/99  
DEB BOGSTAD  
**BOARD CLERK**

SEP 30 1999

MEETING DATE: \_\_\_\_\_

AGENDA NO: C-3

ESTIMATED START TIME: 9:30

(Above space for Board Clerk's Use Only)

**AGENDA PLACEMENT FORM**

**SUBJECT: Renewal of the Intergovernmental revenue agreement with the City of Gresham in the amount of \$251,272, for transitional housing, bilingual case management, and emergency housing vouchers.**

BOARD BRIEFING

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

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

Amount of Time Needed: \_\_\_\_\_

REGULAR MEETING

Date Requested: Next Available

Amount of Time Needed: N/A

DEPARTMENT: Community and Family Services

DIVISION: \_\_\_\_\_

CONTACT: Lorenzo Poe/Mary Li

TELEPHONE: 248-3999 x26787

BLDG/ROOM: B166/7th

PERSON(S) MAKING PRESENTATION: Consent

**ACTION REQUESTED:**

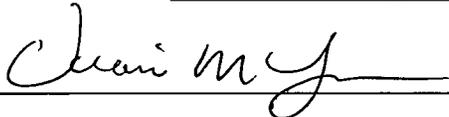
INFORMATIONAL ONLY    POLICY DIRECTION    APPROVAL    OTHER

**SUGGESTED AGENDA TITLE**

**Renewal of the Revenue Agreement with the City of Gresham for Transitional Housing, Bilingual Case Management, and Emergency Housing Vouchers**

10/6/99 ORIGINALS to  
ESTHER MONTANEZ MORALES

**SIGNATURES REQUIRED:**

ELECTED OFFICIAL: 

OR  
DEPARTMENT MANAGER: 

CLERK OF  
COUNTY COMMISSIONERS  
99 SEP 23 AM 11:34  
MULTNOMAH COUNTY  
OREGON

**ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES**

Any Questions: Call the Board Clerk @ 248-3277



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES  
421 SW SIXTH AVENUE, SUITE 700  
PORTLAND, OREGON 97204-1618  
PHONE (503) 248-3691  
FAX (503) 248-3379  
TDD (503) 248-3598

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DIANE LINN • DISTRICT 1 COMMISSIONER  
SERENA CRUZ • DISTRICT 2 COMMISSIONER  
LISA NAITO • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

TO: Board of County Commissioners

FROM: Lorenzo Poe, Director *Lorenzo Poe mas*  
Department of Community and Family Services

DATE: September 2, 1999

SUBJECT: FY1999-2000 Contract Amendment #5 to Intergovernmental Revenue Agreement between City of Gresham and Department of Community and Family Services

- I. **Retroactive Status:** This contract amendment is retroactive to July 1, 1999. The City of Gresham had originally planned to administer these funds directly. However, the City decided after the beginning of the fiscal year that they would continue their collaborative efforts with Multnomah County and have the Department of Community and Family Services oversee and administer these funds.
- II. **Recommendation/Action Requested:** The Department of Community and Family Services recommends Board of County Commissioner approval of the amended revenue agreement from the City of Gresham, for the period July 1, 1999 through June 30, 2000.
- III. **Background/Analysis:** The Department of Community and Family Services has received an amendment to the revenue agreement from the City of Gresham, which funds bilingual case management, emergency housing vouchers, and the development of Alpha Apartments. The Amendment extends the term of the agreement to June 30, 2000 and adds \$251,272 for FY 99/00.
- IV. **Financial Impact:** The amendment is a revenue agreement adding \$251,272 in funding.
- V. **Legal Issues:** None
- VI. **Controversial Issues:** None
- VII. **Link to Current County Policies:** This amendment funds services to help people in East County stabilize their housing and become economically self-sufficient. The services promote the achievement of reducing poverty rates among our community's children. The services also provide preventive support that relates to public safety benchmarks.
- VIII. **Citizen Participation:** The funding awards for this agreement came through the CDBG selection process, which included public input.
- IX. **Other Government Participation:** The intergovernmental agreement demonstrates cooperation and coordination in planning and implementation of low income service programs by the City of Gresham and Multnomah County.



**Max D. Talbot**  
Director  
618-2661

*Private &  
Economic  
Development  
Team*  
**Rob Fussell**  
Manager  
618-2835

*Building  
Development  
Team*  
**Clint Hillman**  
Manager  
618-2404

*Project &  
Policy  
Development  
Team*  
**Richard Ross**  
Manager  
618-2378

*Office  
Manager*  
**Cathy Holmes**  
618-2498

## CITY OF GRESHAM

Community Development Department  
1333 N.W. Eastman Parkway  
Gresham, OR 97030-3813  
(503) 618-2400/2500  
FAX (503) 669-1376

RECEIVED  
AUG 24 1999

August 23, 1999

Mary Li  
Multnomah County Department of Community & Family Services  
421 SW 6th Ave. #500  
Portland, OR 97204-1618

Dear Ms. Li

RE: Intergovernmental Agreement (IGA)

I have attached three signed copies of Amendment No. 5 to the IGA between the City of Gresham and Multnomah County Department of Community & Family Services for services FY99-00. Please review, have them signed and return TWO to me.

If you have questions, please don't hesitate to give me a call at 618-2818.

Thanks.

Sincerely,

Elaine K. Fultz  
Program Technician

CC: Andrée Tremoulet, Lead Planner, Community Revitalization Program

**MULTNOMAH COUNTY CONTRACT APPROVAL FORM**  
(See Administrative Procedure CON-1)

Contract #: **103535**

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

Amendment #: **5**

<p><b>Class I</b></p> <input type="checkbox"/> Professional Services not to exceed \$50,000 (and not awarded by RFP or Exemption) <input type="checkbox"/> Revenue not to exceed \$50,000 (and not awarded by RFP or Exemption) <input type="checkbox"/> Intergovernmental Agreement (IGA) not to exceed \$50,000 <input type="checkbox"/> Expenditure <input type="checkbox"/> Revenue <input type="checkbox"/> Architectural & Engineering not to exceed \$10,000 (for tracking purposes only)	<p><b>Class II</b></p> <input type="checkbox"/> Professional Services that exceed \$50,000 or awarded by RFP or Exemption (regardless of amount) <input type="checkbox"/> PCRB Contract <input type="checkbox"/> Maintenance Agreement <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Construction <input type="checkbox"/> Grant <input type="checkbox"/> Revenue that exceeds \$50,000 or awarded by RFP or Exemption (regardless of amount)	<p><b>Class III</b></p> <input checked="" type="checkbox"/> Intergovernmental Agreement (IGA) that exceeds \$50,000 <input type="checkbox"/> Expenditure <input checked="" type="checkbox"/> Revenue
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**APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS**  
**AGENDA # C-3 DATE 9/30/99**  
DEB BOGSTAD  
**BOARD CLERK**

Department: Community and Family Services Division: Community Programs and Partnerships Date: September 2, 1999  
 Originator: \_\_\_\_\_ Phone: \_\_\_\_\_ Bldg/Rm: \_\_\_\_\_  
 Contact: Esther Montanez Morales Phone: 26223 Bldg/Rm: 166/7

Description of Contract **Amendment extends contract term and adds funding for FY99/00 to pay for bilingual case management, emergency housing vouchers, and development of Alpha Apartments.**

RENEWAL:  PREVIOUS CONTRACT #(S): \_\_\_\_\_  
 RFP/BID: \_\_\_\_\_ RFP/BID DATE: \_\_\_\_\_  
 EXEMPTION \_\_\_\_\_ EXEMPTION EXPIRATION \_\_\_\_\_ ORS/AR \_\_\_\_\_  
 #/DATE: \_\_\_\_\_ DATE: \_\_\_\_\_ # \_\_\_\_\_  
 CONTRACTOR IS:  MBE  WBE  ESB  QRF  N/A  NONE (Check all boxes that apply)

Contractor <u>City of Gresham</u> Address <u>1333 NW Eastman Parkway</u> <u>Gresham, OR 97030-3813</u> Phone <u>(503)669-2643</u> Employer ID# or SS# _____ Effective Date <u>July 1, 1999</u> Termination Date <u>June 30, 2000</u> Original Contract Amount \$ <u>67,801(FY94/95)</u> Total Amt of Previous Amendments \$ <u>86,542(FY95/96);</u> <u>81,860(FY96/97);</u> <u>83,783(FY97/98);</u> <u>79,567 (FY98/99)</u> Amount of Amendment \$ <u>\$251,272</u> Total Amount of Agreement \$ <u>\$650,825</u>	Remittance Address _____ (If different) _____ Payment Schedule / Terms <input type="checkbox"/> Lump Sum \$ _____ <input type="checkbox"/> Due on Receipt <input type="checkbox"/> Monthly \$ <u>Invoice</u> <input type="checkbox"/> Net 30 <input type="checkbox"/> Other \$ _____ <input type="checkbox"/> Other _____ <input type="checkbox"/> Requirements \$ _____ Encumber <input type="checkbox"/> Yes <input type="checkbox"/> No
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**REQUIRED SIGNATURES**

Department Manager Lorenzo Paez DATE 9/1/99  
 Purchasing Manager \_\_\_\_\_ DATE \_\_\_\_\_  
 County Counsel Thomas Spangler DATE 9/20/99  
 County Chair Cheri McJ DATE 9/30/99  
 Sheriff \_\_\_\_\_ DATE \_\_\_\_\_  
 Contract Administration \_\_\_\_\_ DATE \_\_\_\_\_

LGFS VENDOR CODE GV5171						DEPT REFERENCE					
LINE #	FUND	AGENCY	ORG	SUB ORG	ACTIVITY	OBJ/REV	SUB OBJ	REP CAT	LGFS DESCRIPTION	AMOUNT	INC DEC
01	156	010	1150			2024				251,272	
02											

City of Gresham  
1333 NW Eastman Parkway  
Gresham, OR 97030

Project #: 1731  
Amendment #: 5  
Program Year: 1999-2000

## COVER SHEET AMENDMENT TO INTERGOVERNMENTAL AGREEMENT

**Project Title:** Multnomah County Public Service IGA  
**Contractor's Name:** Multnomah County Department of Community & Family Services

**Contractor's Authorized Representative:** Mary Li 248-3999  
**Phone No.**

**Mailing Address:** 421 SW 6th Ave, #500  
Portland, OR 97204-1618

**Employer's I.D. No.** 93-6002309  
**Contract Amount:** \$251,272

**Contract Effective Date:** July 1, 1999      **Termination Date:** June 30, 2000

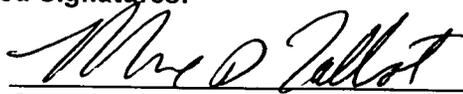
**Short Description:** IGA consists of 2 public service projects: Bilingual Case Management Services by Catholic Charities; and Emergency Vouchers by the County and 1 housing project: Alpha Apartments, CODA, Inc.

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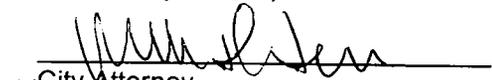
**City Liaison Officer:** Andrée Tremoulet 618-2643  
**Phone No.**

**Contract Prepared Under Council Action/Date:** Resolution No. 2293, May 4, 1999 and Resolution No. 2292, May 4, 1999

**Required Signatures:**

  
\_\_\_\_\_  
Community Development Director

8/23/99  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
City Attorney

8-20-99  
\_\_\_\_\_  
Date

**1999-2000 AMENDMENT**  
to  
INTERGOVERNMENTAL AGREEMENT  
between  
MULTNOMAH COUNTY  
and  
CITY OF GRESHAM  
for the  
ADMINISTRATION OF PUBLIC SERVICES AND HOUSING GRANTS

This Amendment to the Intergovernmental Agreement (IGA) between Multnomah County and City of Gresham for the Administration of Public Service Grants, dated October 27, 1994, extends the IGA to June 30, 2000, adds a grant of \$251,272 and revises Scope of Work objectives, as authorized in the IGA, Section V. D., page 6.

This Amendment makes the following changes to the IGA:

A. Change title of IGA to read as follows: ADMINISTRATION OF PUBLIC SERVICE AND HOUSING GRANTS.

B. Insert to Introduction, line 3, after "\$67,801":

"for use in 1994-95; and \$86,542 for use in 1995-96; and \$81,860 for use in 1996-97; and \$83,783 for use in 1997-98; \$79,567 for use in 1998-99; and \$251,272 for use in 1999-2000."

C. Add to Recital, No. 5, page 1:

"The Gresham City Council has by Resolution No. 2293, May 4, 1999, authorized \$39,272 of CDBG funds to be used during the period July 1, 1999, to June 30, 2000, as follows:

- \$34,870 for Bilingual Case Management Services operated by Catholic Charities, and
- \$4,402 for Emergency Housing Voucher Program operated by Community and Family Services Division of Multnomah County."

"The Gresham City Council has by Resolution No. 2292, May 4, 1999, authorized \$212,000 of HOME funds to be used during the period July 1, 1999, to June 30, 2000, for the construction of Alpha Apartments, operated by CODA, Inc."

D. Change Recital No. 6 to read as follows:

"Gresham now desires to enter into a formal contract with Multnomah County to administer Gresham Community Development Block Grant funds for bilingual case management services and an emergency housing voucher program."

E. Add Recital Nos. 7 through 9.

"7. Gresham and Multnomah County are entitled to receive HOME funds as part of the Portland HOME Consortium.

8. As a result of a request-for-proposals process conducted by each jurisdiction, both Multnomah County and Gresham are funding the construction of Alpha Apartments by CODA, Inc.

9. Gresham now desires to enter into a formal contract with Multnomah County to administer Gresham HOME funds for Alpha Apartments."

F. Replace I. Scope of Services page 2-4:

Scope of Services for 1999-2000

Multnomah County will oversee and administer the efficient delivery of the following Gresham-CDBG funded services to be performed by Catholic Charities of Portland, and the County. It will ensure that quarterly narrative and statistical reports are submitted on these projects. The County also will submit a final evaluation report. (Gresham will conduct on-site monitoring visits.)

The County will oversee and administer the Bilingual Case Management Service through unit price contracts with Human Solutions, Inc. and Catholic Charities of Portland, respectively.

The County will oversee, administer and conduct the Emergency Housing Vouchers services using a cost reimbursement system.

The County will work with the City to develop appropriate benchmark or outcome measurements for each project and will implement a measurement system and data collection system for each project.

The County shall oversee the development of Alpha Apartments in behalf of the City of Gresham. Multnomah County shall contribute \$300,000 in HOME funds for 6 units, and Gresham shall contribute \$212,000 in HOME funds for 5 units.

A. Bilingual Case Management Services

Multnomah County will oversee and administer the following 1999-2000 Bilingual Case Management services to be performed by the Catholic Charities of Portland.

1. Catholic Charities will provide 1470 case management hours to approximately 1,100 Gresham households earning below 80% of Median Family Income (MFI) for the Portland area. Clients must certify their income level. (Exhibit B enclosed with this agreement gives income limits by family size.)
2. Case management services will be provided by a bilingual/bicultural intake and assessment worker and will include:
  - Needs assessment and evaluation;
  - Outreach and advocacy;
  - Identification, information and referral to appropriate community resources;
  - Arranging for scheduling of appointments for Spanish speaking-only clients for medical, dental, legal, mental health and other related services;
  - Providing food, clothing, transportation and shelter as available;
  - Interpretation and translation for clients and nonprofit service agencies;
  - Conducting and arranging workshops such as driver's education, health, anger management, parenting, nutrition, first aid, English as a second language, literary proficiency, budgeting and other life skills;
  - Counseling (individual, group and family) in areas of alcohol and drug abuse, domestic violence, sexual abuse and teen parenting issues.
3. Catholic Charities will maintain separate statistics on Gresham clients served, ethnic background, income level and female head of households served. Such information shall be reported to Gresham on a quarterly basis. (Exhibit A - "Statistical Report of Services Provided" is a sample reporting form.)
4. Catholic Charities will maintain a separate accounting or tracking system of Gresham units of service provided to allow verification of units of case management hours billed.
5. Catholic Charities will maintain programmatic documentation and fiscal documentation on all activities funded with Community Development Block Grant funds for a minimum of three years after termination of this Agreement.
6. The unit cost will be approximately \$23.72 per hour of case management services.
7. The maximum amount to be allocated shall not exceed \$34,870 for case management services.

B. Emergency Housing Vouchers

Multnomah County will oversee, administer and conduct the following 1999-2000 Emergency Housing Voucher Program services.

1. The County will provide emergency housing vouchers to approximately 8 households (approximately 18 people). The average stay will be approximately 2.25 weeks, resulting in approximately 126 voucher nights of service.
2. The County will review requests from intake agencies and maintain a client list to avoid duplication of services during the fiscal year.
3. The County, in conjunction with the Operations Committee, will play a coordinating role in the following activities: shelter availability and referrals; systematizing voucher expenditures between funding sources; and responding to concerns between agencies, funders and vendors.
4. The County will maintain separate statistics on Gresham clients or households served, ethnic background, income levels and female head of households served. Such information shall be reported to Gresham on a quarterly basis. (Exhibit A - "Statistical Report of Services Provided" is a sample form.)
5. The County will maintain a system for tracking funds expended under this agreement.
6. Funds will be used to reimburse actual costs of Emergency Housing Vouchers.
7. The County will maintain programmatic and fiscal documentation on all activities funded with Community Development Block Grant funds for a minimum of three years after termination of this Agreement.
8. The maximum amount to be allocated shall not exceed \$4,402 for emergency housing vouchers

C. Alpha Apartments

1. The City of Gresham shall complete the environmental review for this project and send a copy to the County when it is complete
2. The City of Gresham shall provide Multnomah County with a draft contract for \$512,000 in HOME funds, for this project. Said contract shall be between Multnomah County and CODA, Inc. The County shall execute said contract and provide a copy to the City of Gresham.

3. Multnomah County shall perform a detailed analysis of the construction budget, the layering analysis, and an analysis for compliance with applicable HOME regulations.
4. Multnomah County shall administer the contract with CODA, review and approve draw requests, and complete routine inspections. The County shall notify Gresham when construction commences and when it is completed.
5. Upon completion of the project, Multnomah County will submit a copy of the completion report within 90 days of occupancy to the City of Portland and the City of Gresham.
6. Multnomah County shall perform periodic inspections of the completed project throughout the term of the contract.

G. Insert to II, after second paragraph, page 5

"To cover the costs of construction of the CODA project, the HOME IGA between the City of Portland and Multnomah County shall be increased by \$212,000 for FY1999-2000, and the HOME IGA between the City of Portland and the City of Gresham shall be decreased by \$212,000 for FY 1999-2000."

H. Insert to II., third paragraph, page 5, after "(\$67,801)":

"for use in 1994-95; and EIGHTY-SIX THOUSAND, FIVE HUNDRED AND FORTY-TWO DOLLARS (\$86,542) for use in 1995-96; and EIGHTY-ONE THOUSAND, EIGHT HUNDRED AND SIXTY DOLLARS (\$81,860) for use in 1996-97; AND EIGHTY-THREE THOUSAND, SEVEN HUNDRED AND EIGHTY-THREE DOLLARS (\$83,783) for use in 1997-98; SEVENTY-NINE THOUSAND, FIVE HUNDRED AND SIXTY SEVEN DOLLARS (\$79,567) for use in 1998-99 and TWO HUNDRED FIFTY ONE THOUSAND TWO HUNDRED TWO DOLLARS (\$251,272) for use in 1999-2000."

The Term of this Amendment shall be effective as of July 1, 1999 and shall terminate as of June 30, 2000, or later if extended under the terms stated in Section V. D., page 6 of the IGA.

Dated this 30th day of September, 1999.

CITY OF GRESHAM

MULTNOMAH COUNTY

Max Talbot  
Max Talbot, CDD Director / Date

Beverly Stein 9-30-99  
Beverly Stein, Chair / Date

Lorenzo T. Poe  
Lorenzo T. Poe, Director / Date  
Community and Family Services Division

APPROVED AS TO FORM:

REVIEWED:

Richard Faus  
Richard Faus / Date 8-20-99  
City Attorney

Thomas Sponsler 9/20/99  
Tom Sponsler / Date  
County Counsel

APPROVED MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # C-3 DATE 9/30/99  
DEB BOGSTAD  
BOARD CLERK



**City of Gresham  
Community Revitalization Program**

**EXHIBIT B**

**STATISTICAL REPORT OF SERVICES PROVIDED**

Project Title \_\_\_\_\_

Month(s) of \_\_\_\_\_

Contractor Name \_\_\_\_\_

	Current Month	Prior Months	Cumulative
Persons (Contract Goal) <sup>1</sup>			
Unduplicated Persons Served <sup>1</sup>			
Households (Contract Goal) <sup>1</sup>			
Unduplicated Households Served <sup>1</sup>			
Client Contacts (Optional)			

**For Unduplicated Persons/Households:**

Persons/Households Below 80% MFI


Persons/Households Below 50% MFI<sup>2</sup>

White (not Hispanic origin)<sup>3</sup>

Black (not Hispanic origin)<sup>3</sup>

Hispanic<sup>3</sup>

Asian/Pacific Islander<sup>3</sup>

American Indian/Alaska Native<sup>3</sup>


Female Head of Household<sup>4</sup>

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<sup>1</sup> Use "persons" for public service and other non-housing projects. Use "households" for housing projects.

<sup>2</sup> The number below 50% of Median Family Income (MFI) should be less than or equal to the number below 80% MFI.

<sup>3</sup> The sum of the race/ethnic categories should equal the number of persons or households served.

<sup>4</sup> For unduplicated persons served, count as female head of household if person served lives in a household with this characteristic.

City of Gresham  
Community Revitalization Program

EXHIBIT C

SEMI-ANNUAL REPORT ON OUTPUTS & OUTCOMES

*This report is due on January 15 and July 15.*

Name of Agency/Organization: \_\_\_\_\_

1. Outputs

- a. List below the quantified outputs you said your program would produce in the grant application you submitted.
- b. Describe (in numerical terms, as far as possible) the outputs your program has achieved fiscal year-to-date.
- c. Describe any significant obstacles you may have encountered that has affected your ability to produce the outputs you had proposed in your grant application.

2. Outcomes

- a. List below the quantified outcomes you said your program would produce in the grant application you submitted.
- b. Describe (in numerical terms, as far as possible) the outcomes your program has achieved fiscal year-to-date.
- c. Describe any significant obstacles you may have encountered that has affected your ability to produce the outcomes you had proposed in your grant application.

3. General Information

a. Time period covered by this report (select one)

July – December

January – June

b. Report prepared by:

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

Title: \_\_\_\_\_

c. Date Submitted: \_\_\_\_\_

MEETING DATE: OCT 07 1999  
AGENDA NO: UC-1  
ESTIMATED START TIME: 9:30

(Above Space for Board Clerk's Use ONLY)

**AGENDA PLACEMENT FORM**

**SUBJECT:** Amendment to Children and Family Services Lease at the Commonwealth Building

**BOARD BRIEFING:** DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

**REGULAR MEETING:** DATE REQUESTED: October 7, 1999  
AMOUNT OF TIME NEEDED: N/A

**DEPARTMENT:** Environmental Services **DIVISION:** Property Management

**CONTACT:** Jennifer de Haro **TELEPHONE #:** 66094  
**BLDG/ROOM #:** 421/3rd

**PERSON(S) MAKING PRESENTATION:** N/A (consent Item)

**ACTION REQUESTED:**

INFORMATIONAL ONLY  POLICY DIRECTION  APPROVAL  OTHER

**SUGGESTED AGENDA TITLE:**

Approval of Amendment to Children and Family Services Lease at the Commonwealth Building

**SIGNATURES REQUIRED:**

**ELECTED OFFICIAL:** \_\_\_\_\_  
**(OR)**  
**DEPARTMENT**  
**MANAGER:** *Robert Nicholas*

CLERK OF COUNTY COMMISSIONERS  
99 OCT - 9 PM 3:30  
MULTI-NOMIN COUNTY OREGON

**ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES**

**Any Questions: Call the Board Clerk @ 248-3277**

## SUPPLEMENTAL STAFF REPORT

TO: Multnomah County Board of Commissioners  
FROM: Jennifer de Haro, Property Management Specialist  
DATE: October 4, 1999  
RE: Lease Amendment for Children's Services Division at the  
Commonwealth Building

1. Recommendation /Action Required:  
Approve the Lease amendment.
2. Background/Action Requested:  
Children and Family Services has an existing lease at the Commonwealth building that through an amendment will extend through June 30, 2005, for a monthly rental of \$69,248.08. This amendment adds approximately 2323 square feet, with an increase to the monthly rental of \$2,613.38 per month.
3. Financial Impact:  
The monthly payment will increase from \$66,634.70 to \$69,248.08.
4. Legal Issues:  
None known.
5. Controversial Issues:  
None known.
6. Link to Current County Policies:  
Not Applicable.
7. Citizen Participation:  
None known.
8. Other Government Participation:  
None known.



# MULTNOMAH COUNTY OREGON

## REAL PROPERTY LEASE DESCRIPTION FORM

- Revenue       Rent Free Agreement       Taxpayer ID (lessor) \_\_\_\_\_  
 Expense       County Owned       Renewal of Lease

Property Management  
 Contact Person Bob Oberst Phone 248-3851 Date oct. 1, 1999

Division Requesting Lease Community and Family Services

Contact Person Nancy Wilton Phone X 248-2797

Lessor Name American Property Management

Effective Date Oct. 15, 1999

Mailing Address PO Box 12127

Termination Date June 30, 2000\*

Portland, OR 97212-0127

Total Amount of Agreement \$ 3,676,547.13

Phone 284-2147

Payment Terms

Lessee name Multnomah County

Annual \$ \_\_\_\_\_  Monthly \$ 69,248.08

Mailing Address 2505 SE 11th Ave.

Other \$ \_\_\_\_\_ 1) includes monthly storage of \$25.00  
 2) 5% annual increase

Portland, OR 97202

Phone 248-3322

Amendment to K#301615-7

Address of 421 S.W. 6th Suite 800

\*lease to be extended beginning July 1, 2000

Lease Property Portland, OR

Purpose of Lease Community and Family Svcs

FUND	AGENCY	ORGANIZATION	ACTIVITY	OBJ	SUB OBJ	REV SOURCE	SUB REV	REPT CATEG
410	030	5650		6170				

### REQUIRED SIGNATURES:

Department Head [Signature] Date 10/5/99

County Counsel [Signature] Date 10/5/99

Property Management [Signature] Date 10/4/99

County Executive/Sheriff \_\_\_\_\_ Date \_\_\_\_\_

CODE		FOR ACCOUNTING / PURCHASING ONLY									
VENDOR NAME		YEAR	AUTHORIZATION NOTICE						ENCUMBRANCE "APRON" ONLY		
LINE NO.	NUMBER	FUND	AGENCY	ORGANIZATION	ACTIVITY	OBJECT	SUB OBJ	REPT CATEG	DESCRIPTION	AMOUNT	INC. DEC IND
	<del>XXXXXX</del>										
	301615-8										

WHITE-PURCHASING

CANARY-INITIATOR

PINK-FINANCE

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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

Authorizing Execution of an Amendment to an Existing Lease for Children and Family Services at the Commonwealth Building.

The Multnomah County Board of Commissioners Finds:

- a) Multnomah County has an existing lease with American Property Management for Children and Family Services, approved by the Board December 29, 1994, amended and extended through June 30, 2005.
- b) Children and Family Services requires more space to accommodate growth in the programs and to continue to deliver services in the Commonwealth Building.
- c) The 800 square feet that is the subject of this amendment has been identified as sufficient in size and location to facilitate the growing needs of the agency.
- d) The premises described in the attached Lease Amendment before the Board this date have been determined to be available at a reasonable rental.
- e) It appears that the lease of the premises described in the Lease Amendment 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.

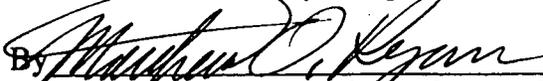
Adopted this     day of October, 1999.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Beverly Stein, Chair

REVIEWED:

Thomas Sponsler, County Counsel  
For Multnomah County, Oregon

By   
Matthew O. Ryan, Assistant County Counsel



**AMERICAN PROPERTY MANAGEMENT**

**2154 N.E. Broadway Portland, Oregon 97232**

**Mailing Address: P.O. Box 12127, Portland, Oregon 97212**

**Phone (503)284-2147 Fax (503)287-1587**

**FOURTH AMENDMENT TO LEASE**

Date: **September 15, 1999**

AMERICAN PROPERTY MANAGEMENT Account #C-8486-02

The following **Fourth** Amendment to Lease shall amend the original Lease dated **December 29, 1994**, the **First Amendment to Lease** dated **February 20, 1995**, the **Second Amendment to Lease** dated **April 25, 1995** and the **Lease Extension/Expansion** dated **July 1, 1998** (collectively the "LEASE") between AMERICAN PROPERTY MANAGEMENT CORP. as agent for and on behalf of WESTON HOLDING CO., L.L.C. ("LESSOR") and **Multnomah County, a division of The State of Oregon, Community and Family Services** ("LESSEE") regarding the Premises located at **421 S.W. Sixth Avenue, Portland, Oregon**.

If any provisions contained in this **Fourth** Amendment to Lease are inconsistent with any other provisions of the LEASE, the provisions contained in this **Fourth** Amendment to Lease shall control, unless otherwise provided in this **Fourth** Amendment to Lease.

The LEASE shall be amended as follows:

1.) Page One:

Commencing **October 15, 1999** the account number shall include #C-8516-03.

Commencing **October 15, 1999** the Premises shall include Suite #800 ("Expansion Space").

Commencing **October 15, 1999** the Premises square footage shall increase by **2323** rentable square feet.

Commencing **October 15, 1999** the initial Base Rental shall increase by **\$2,613.38** per month.

This Fourth Amendment shall expire **October 31, 2000**.

2.) Interior Design and Modification:

Expansion Space, Suite #800 is described on the attached Exhibit "B-2" Space Plan.

3.) Lessor Agreed Tenant Improvements:

Expansion Space, Suite #800, shall be improved based on the attached Exhibit "C-2" Interior Space Work Agreement for Suite #800.

If any provisions contained in this Exhibit "C-2" Interior Space Work Agreement are inconsistent with any other provisions contained in this LEASE (ie: Exhibit "B-2" Space Plan), the provisions contained in this Exhibit "C-2" Interior Space Work Agreement shall control.

4.) Standard of Measurement for Suite #800:

A.) Useable Square Footage

Is that area from the center of the tenant demising wall to the center of the opposite tenant demising wall which is established by the American National Standard Method of Measurement of Office Floor Space (ANSI Z65.1-1980) and the Building Owners and Manager Association (BOMA).

B.) Load Factor

Is a percentage of all the Building common areas such as Building lobby, elevator lobbies, common hallways, common restrooms, common utility service closets, common conference room, common canteen/kitchen lounge areas and designated smoking areas. Not calculated are vertical floor penetrations such as stairways, elevator shafts or mechanical shafts.

C.) Rentable Square Footage

Is the calculated useable square footage plus a percentage of the common area of the building. The total of the two equal rentable square footage.

Formula:

Expansion Space, Suite #800

2112 useable square feet + 10% Load Factor = 2323 rentable square feet

Note: The actual common area square footage exceeds the Load Factor of the Lease.

These square footages are approximations only and may vary from the actual square footage. Prior to occupancy LESSEE may inspect and measure the Expansion Space to confirm the square footage. As of occupancy LESSEE shall be deemed to have accepted the Expansion Space, and will be deemed to have waived any objection to the square footage approximations set forth herein.

5.) Must Take Option

**This Fourth Amendment to Lease will automatically be extended on November 1, 2000 and terminate on June 30, 2005. The Base Rental will subject to a five percent (5%) annual increase on the following dates: July 1, 2001; July 1, 2002; July 1, 2003; and July 1, 2004.**

6) Floor Plan

See attached Exhibit "E-1" Floor Plan.

7.) Expiration of Offer:

This offer to amend the LEASE shall expire at the sole option of the LESSOR if this Lease Amendment is not signed by the LESSEE and delivered to the LESSOR with no changes and accompanied by appropriate prepaid monies by **September 29, 1999**.

All other terms and conditions of the LEASE shall apply.

IN WITNESS WHEREOF, the respective parties have executed this instrument in duplicate on this, the day, the month, and the year hereinbelow written, any corporation signature being by authority of its Board of Directors.

LESSOR: AMERICAN PROPERTY MANAGEMENT CORP. <b>Multnomah County, Oregon a political division of The</b> As agent for and on behalf of WESTON HOLDING CO., L.L.C.	LESSEE: <b>State of Oregon, Community and Family Services</b>
--	--

X \_\_\_\_\_  
 Douglas D. Lindholm  
 Vice President of Commercial Property

X \_\_\_\_\_  
 Name: Beverly Stein  
 Title: Multnomah County Chair

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

Date: October 1999

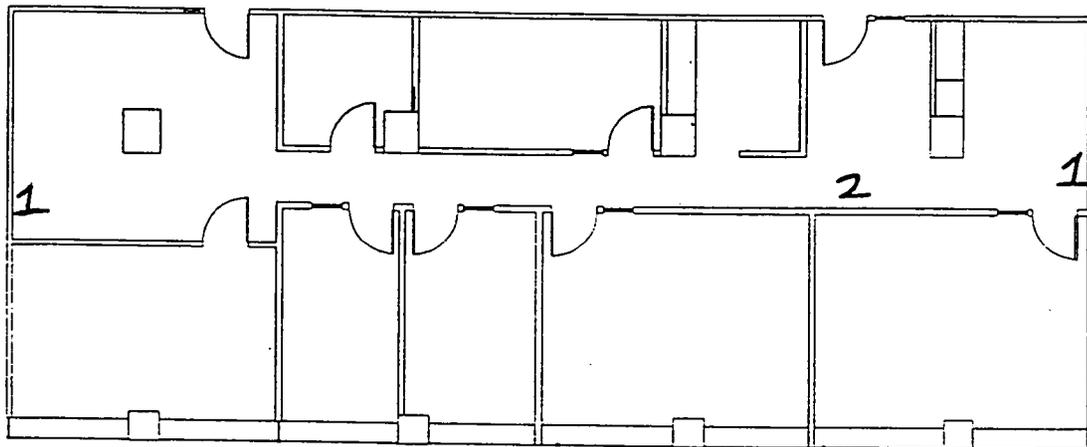
C:\AMENDMEN.(03/25/99tm)

APPROVED MULTNOMAH COUNTY  
 BOARD OF COMMISSIONERS  
 AGENDA # \_\_\_\_\_ DATE \_\_\_\_\_

REVIEWED BOARD CLERK  
 By *[Signature]*  
 MULTNOMAH COUNTY COUNSEL

**EXHIBIT "B-2" SPACE PLAN FOR EXPANSION SPACE  
SUITE #800**

*Multnomah County, Oregon, a political division of The State of Oregon,  
Community and Family Services  
421 S.W. Sixth Avenue, Suite #800  
Portland, Oregon 97204  
Account #C-8516-03*



COMMONWEALTH BLDG.  
SUITE 800  
421 SW 6th AVENUE  
PORTLAND, OR 97204

Acct. #8516  
2,112 USEABLE SQ.FT.  
OCTOBER 21, 1996  
SCALE:1" = 10'

*1 = Add Cased Opening*

*2 = Repair Wall and Paint*

*Any changes to this Exhibit "B-2" Space Plan are subject to LESSOR'S approval. Any changes to this plan shall be at LESSEE'S sole cost and expense, shall not delay lease commencement, and may delay LESSEE'S occupancy.*

**EXHIBIT "C-2" INTERIOR SPACE WORK AGREEMENT FOR EXPANSION SPACE  
SUITE #800**

*LESSEE: Multnomah County, Oregon, a political division of The State of Oregon,  
Community and Family Services*

ACCOUNT #:C-8516-03 BUILDING/SUITE Commonwealth#800:

<u>ITEM</u>	<u>ACCEPTED AS-IS</u>	<u>AGREED IMPROVEMENTS</u>	<u>LESSOR EXPENSE</u>	<u>LESSEE EXPENSE</u>
<i>PAINTING: (Building Standard Color)</i>	—	<i>Repair wall and paint as described on Exhibit "B-2" space plan to match existing paint color.</i>	<u>X</u>	—
<i>FLOORCOVERING: (Building Standard Carpet Color/Cove Base Color)</i>	—	<i>Shampoo carpet in Suite.</i>	<u>X</u>	—
<i>VINYL FLOORCOVERING: (Building Standard Vinyl)</i>	<u>X</u>	—	—	—
<i>LIGHTING: (Building Standard Fixtures)</i>	<u>X</u>	—	—	—
<i>ELECTRICAL: (Building Standard 110 Volt)</i>	<u>X</u>	—	—	—
<i>CEILING: (Building Standard Acoustical Tile)</i>	<u>X</u>	—	—	—
<i>PARTITIONS: (Building Standard Sheetrock)</i>	<u>X</u>	—	—	—
<i>DOORS/FRAMES (Building Standard Quality)</i>	—	<i>Install two (2) cased openings as described on Exhibit "B-2" Space Plan</i>	<u>X</u>	—
<i>LOCKS/HARDWARE (Building Standard Quality)</i>	<u>X</u>	—	—	—
<i>RELIGHTS: (Building Standard Interior)</i>	<u>X</u>	—	—	—
<i>WINDOWCOVERING: (Building Standard Exterior)</i>	<u>X</u>	—	—	—
<i>TELEPHONE: (Building Standard Mud Rings)</i>	<u>X</u>	—	—	—
<i>PLUMBING:</i>	<u>X</u>	—	—	—

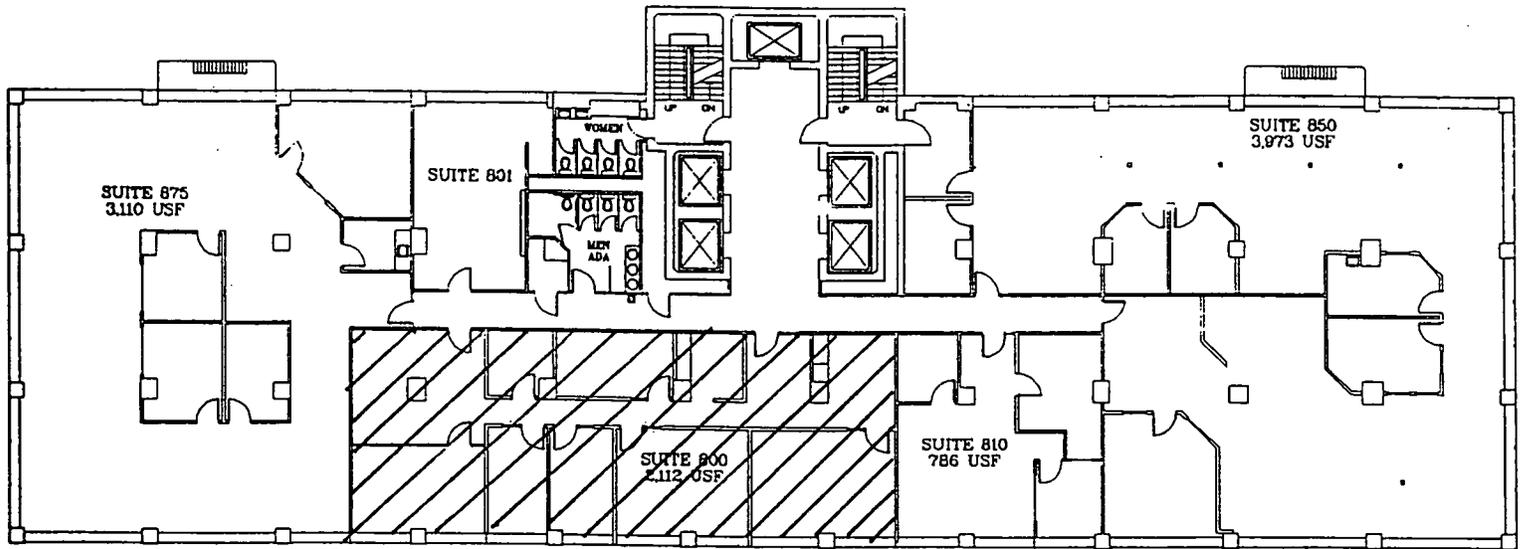
*Note: LESSEE acknowledges that LESSOR will be performing the above-described work during normal business hours. LESSEE agrees to move all furniture and equipment at least three (3) feet away from work areas.*

*If LESSEE is modifying their existing space layout, or expanding their leased premises, it is understood and agreed that all Lessor Agreed Tenant Improvement work may be performed during normal business hours and will not be deemed as an interruption of LESSEE'S business and that AMERICAN PROPERTY MANAGEMENT CORP. assumes no liability for damage to any existing hidden electrical located in the walls, ceiling and/or floors (i.e., electrical for phones, fax, computers, office equipment, etc.) that is not indicated on this agreement and brought to the attention of AMERICAN PROPERTY MANAGEMENT CORP. prior to the office remodel or is not equipped with an appropriate power surge protection device.*

**EXHIBIT "E-2" FLOOR PLAN FOR EXPANSION SPACE**

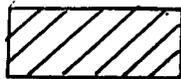
**SUITE #800**

*Multnomah County, Oregon, a political division of The State of Oregon,  
Community and Family Services  
421 S.W. Sixth Avenue, Suite #800  
Portland, Oregon 97204  
Account #C-8516-03*



COMMONWEALTH BLDG.  
EIGHTH FLOOR  
421 SW 6th AVENUE  
PORTLAND, OR 97204

MARCH 11, 1998  
SCALE: 1" = 20'

 = Premises

The above Floor Plan is meant to show the approximate location of the Premises in relation to the rest of the floor only. It may not show an accurate as-built drawing and is not meant for tenant improvement purposes.





CASE NAME: SIGNIFICANT ENVIRONMENTAL CONCERN FOR WILDLIFE PERMIT NUMBER: SEC 39-98

1. Applicant Name/Address:

Walter and Janet Bowen
121 SW Morrison Street, #1000
Portland, Oregon 97204

2. Action Requested By Applicant:

Application for "after-the-fact" approval of a Significant Environmental Concern permit for a 120' x 60' parking area, access road and pond that have been recently constructed on the subject property.

Action Requested Of Board
[X] Affirm Hearings Officer Decision
[ ] Hearing/Rehearing
Scope of Review
[ ] On the Record
[ ] De Novo
[ ] New Information Allowed

3. Planning Director's Decision:

Deny the application based on the findings and conclusions contained within the Administrative Decision of the Planning Director.

4. Hearings Officer Decision:

Affirm Planning Director's Decision, finding that the Notice of Appeal filed by the applicant did not contain grounds sufficient to merit reversal of the Director's Decision.

5. If Recommendation And Decision Are Different, Why?

The Hearings Officer's decision supports the action taken by the Planning Director.

6. Issues:

Three key issues appear to exist. First, the parking lot is not a use permitted in the Commercial Forest Use Zone district. The amount of parking is so great (37 to 43 spaces per Hearings Officer) that it could not be considered customarily accessory to the existing residence as maintained by the applicant. Secondly, the area within which development is proposed was to be re-vegetated and maintained in native vegetation pursuant to a 1995 land use decision authorizing construction of the existing dwelling. Approval of development in this area would violate the 1995 decision and put into question the legal status of the dwelling. Lastly, development is within an area of Significant Environmental Concern for Wildlife Habitat, given that the property is within close proximity of Forest Park. The application failed to satisfy the review criteria and development standards for a Significant Environmental Concern land use permit.

If the Hearings Officer's decision is appealed, staff will provide a memorandum outlining issues in greater detail.

**7. Do Any Of These Issues Have Policy Implications? Explain.**

Policy implications relate to implementation Commercial Forest Use and Significant Environmental Concern sections of the County' Zoning Ordinance. These code sections are designed to ensure compliance with two Statewide Planning Goals, Goal 4 to conserve forest lands for forest uses, and Goal 5 to conserve and protect scenic and natural resources, the resource in this case being wildlife habitat.



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES  
LAND USE PLANNING  
1600 SE 190TH AVE.  
PORTLAND, OREGON 97233  
(503) 248-3043

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DIANE LINN • DISTRICT 1 COMMISSIONER  
SERENA CRUZ • DISTRICT 2 COMMISSIONER  
LISA NAITO • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## Multnomah County Hearings Officer Decision

Attached please find a copy of the Hearings Officer's decision in the SEC 39-98. A copy of the Hearings Officer's decision is being mailed to those persons entitled to receive notice under MCC 11.15.8220(C) and to other persons who have requested the same.

The Hearings Officer Decision may be appealed to the Board of County Commissioners (Board) by any person or organization who appears and testifies at the hearing, or by those who submit written testimony into the record. An appeal must be filed with the County Planning Division within ten days after the Hearings Officer decision is submitted to the Clerk of the Board. Instructions and forms are available at the Land Use Planning Office at 1600 SE 190<sup>th</sup> Ave., Portland, Oregon 97233.

Failure to raise an issue by the close of the record at or following the final hearing, (in person or by letter), precludes appeal to the Land Use Board of Appeals (LUBA) on that issue. Failure to provide specificity on an issue sufficient for the Board to respond precludes appeal to LUBA on that issue.

To appeal the Hearings Officer decision, a Notice of Review form and fee must be submitted to the County Planning Director. For further information call the Multnomah County Land Use Planning Division at 248-3043.

**Signed by the Hearings Officer:**  
**Decision Mailed to Parties:**  
**Decision Submitted to Board Clerk:**  
**Last day to Appeal Decision:**  
**Reported to Board of County Commissioners:**

September 19, 1999  
September 21, 1999  
September 21, 1999  
October 1, 1999  
September 30, 1999

99 SEP 22 11:12  
MULTNOMAH COUNTY  
CLERK OF BOARD OF  
COUNTY COMMISSIONERS

***\* If an appeal is filed, the DeNovo Hearing before the Board of County Commissioners will take place on October 7<sup>th</sup>, 1999 at 11:00 a.m. in room 602 of the Multnomah County Courthouse located at 1021 SW 4<sup>th</sup> Ave.***

**MULTNOMAH COUNTY, OREGON**

**APPEAL TO LAND USE HEARINGS OFFICER**

**APPLICANTS/OWNERS:** Walter and Janet Bowen

**APPELLANTS:** Walter and Janet Bowen

**FILE NUMBER:** SEC 39-98

**APPLICATION:** Request for Approval of SEC Permit for Property in  
CCU Zoning District

**OTHER PARTIES:** Arnold Rochlin

**DECISION OF HEARINGS OFFICER**

**Prior Land Use Approval History**

In September of 1995, Multnomah County issued a GEC permit to allow construction of the Bowen residence on a forty-acre parcel of land near Forest Park in West Portland. This approval involved a review of wildlife protection standards similar to those now found in the County's SEC ordinance. The standards reviewed were found in the 1994 version of the West Hills Reconciliation Report and in the then unadopted SEC ordinance. The Report imposed a one acre limit on the "cultivated area" of a residential property (lawns and gardens) and required that the rest of the parcel should be left in native vegetation, to be altered only in conjunction with approved forest management practices. This Report requirement became Wildlife Habitat Condition 3 of the GEC permit.

The County's SEC standards required development to either comply with County home siting standards or adopt and implement a Wildlife Conservation Plan. The Bowens' asked for approval of a Wildlife Conservation Plan because their home site did not meet County siting rules. The County's 1995 wildlife review required the Wildlife Conservation Plan to fully mitigate any adverse impacts to wildlife habitat caused by the development of the Bowen property or to provide for wildlife enhancement measures to compensate for the loss of habitat values. In the Bowen plan, this mitigation and enhancement was to be accomplished by the Bowens' commitment to replant all "cleared portions" of the property with native vegetation. That commitment was included as Wildlife Habitat Condition 4 of the 1995 GEC permit.

Despite their clear commitment to revegetate the cleared portions of the property, the Bowens proceeded to develop these areas. In the current proceeding, the Bowens have argued that

because these areas of their property are cleared they are suitable for development under SEC rules. The Bowens ask the County to issue new SEC permits for activities that will preclude the Bowens from complying with the 1995 permit and from revegetating the cleared areas for wildlife habitat enhancement.

### **Procedural Background**

On June 18, 1998, the County notified the Bowens of their violation of their 1995 GEC land use permit approval. The Bowens contested this notice of violation. On September 29, 1998, the Bowens were found to have developed their property in violation of their land use permit and the County's land use code.

On November 2, 1998, the Bowens filed an application for approval of an SEC permit to authorize the construction of a pond, parking area and new access road on their property. This application was filed in an effort to obtain County approval of the improvements that were the subject of the enforcement action. The Bowens' application is, however, limited in scope to the new improvements proposed by the applicants. The permits filed do not ask the County to reconsider the decision or conditions imposed in GEC 19-95, the 1995 grading and erosion control and wildlife permit.

The Bowens' SEC permit application was incomplete when submitted. The Bowens' attorney, Michael Robinson, was advised of this fact and was provided a list of the specific deficiencies in the application. On April 29, 1999, Mr. Robinson filed a letter and other materials with the County and claimed that the new information completed the land use application. The new material proposed changes to the pond to be more "natural" and to plant native vegetation. No new site plan was, however, submitted. A list of native vegetation was provided but no commitment was made to use some or all of this vegetation in the pond.

On June 29, 1999, Multnomah County Planner Derrick I. Tokos, AICP issued a decision denying approval of the applicant's request for an SEC permit for the parking lot and pond. On July 11, 1999, the Bowens filed an appeal of the County's decision of denial.

After filing the Notice of Appeal, Mr. Robinson met with County Planners Phil Bourquin and Derrick Tokos to discuss the appeal. On August 16, 1999, Michael Robinson wrote a letter to Mr. Bourquin and Mr. Tokos. In that letter, Mr. Robinson stated that his clients were willing to make changes to their SEC application. One of the changes was to reduce the parking area so it would accommodate 13 parking spaces and to use the rest of the parking area as a "sport court."

On August 18, 1999, a hearing was held regarding the appeal. At the hearing, Michael Robinson granted the County a four-week extension of the 150-day period from August 18, 1999 through September 15, 1999. The Hearings Officer allowed the parties two weeks to

submit post-hearing evidence (September 1, 1999 deadline), one week to submit rebuttal evidence to materials submitted during the two-week period (September 8, 1999 deadline) and one week to the applicant to provide final written argument (September 15, 1999 deadline).

### **Standing of Arnold Rochlin**

The hearings officer finds that Arnold Rochlin has standing to appear and be heard in this matter. Mr. Rochlin has submitted evidence to show that he is a representative of the Forest Park Neighborhood Association. The Association is a neighborhood group that is recognized by the County as entitled to receive notice of use decisions for a geographic area that includes the Bowen property.

### **Scope of Review on Appeal**

The County's land use procedures ordinance requires that the specific grounds for reversal or modification of an administrative decision be specified in the Notice of Appeal. MCC 11.15.8290. The hearing is to be limited to the specific grounds relied upon in Notice of Appeal. MCC 11.15.8295(A). The hearings officer's decision must specifically address the relationships between the grounds listed in the Notice of Appeal and the relevant approval criteria for the SEC permit application. MCC 11.15.8295(C).

The applicants have attempted, after filing the Notice of Appeal, to change the use proposed in their application from a parking lot to a parking lot and sports court. A sports court is a new use. Different provisions of the CFU zoning district, therefore, are relevant approval criteria. It is a fundamental aspect of the Oregon land use system that persons affected by a land use application are entitled to notice of the matter being proposed and reviewed by the County and to receive notice of the applicable criteria that apply to review of the application. Proceeding now, without providing such notice would violate ORS 197.763. Specifically, ORS 197.763(3)(a) requires that the County provide notice of the nature of the application and the uses that could be authorized and the applicable criteria. Furthermore, this change in use is made after the filing of the Notice of Appeal. Since the appeal was filed before this new proposal was made, the grounds in the Notice of Appeal could not possibly raise issues regarding the new proposal. It would be purely speculative to say what the Director's decision might have been if a sports court and a thirteen-space parking lot had been proposed in the first instance.<sup>1</sup> As a result, this decision addresses the land uses reviewed and denied by the Director.

Arnold Rochlin has also attempted to expand the scope of review on appeal based upon

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<sup>1</sup>The applicants' offer to reduce the size of their parking lot was made in conjunction with the sports court proposal, not as a stand-alone proposal.

statutes that assure him the right to appeal the County's administrative decision. ORS 215.416. The County's procedures ordinance gave Mr. Rochlin that right, a right Mr. Rochlin chose not to exercise. The County's procedures ordinance clearly limits a review on appeal to issues identified in the Notice of Appeal. The hearings officer finds that such a limitation does not violate ORS 215.416 merely because Mr. Rochlin saw no reason to appeal a decision with an outcome that was favorable to his interests.

None of the cases cited by Mr. Rochlin hold that it is impermissible to limit the scope of appeals from administrative decisions. In fact, the case of Murray v. City of Beaverton, 17 Or LUBA 723 (1990) holds that a local government may limit the scope of review of an appeal of administrative decision.

The applicants strenuously objected to any enlargement of the scope of appeal to allow Mr. Rochlin to present new arguments. Interestingly enough, the applicants presented arguments that strayed beyond the bounds of the issues raised in the Notice of Appeal. For the most part, the hearings officer has addressed just the issues raised by the Notice of Appeal. All other issues raised by the applicants' arguments are rejected as beyond the scope of the notice. Where matters beyond the scope are discussed, they are provided as *dicta* for the benefit of the Board of County Commissioners on appeal.

#### **Grounds for Review In Notice of Appeal**

The following are the grounds for appeal:

1. The Planning Director erred by describing the application as an "after-the-fact" Significant Environmental Concern permit.
2. The Director erred in finding that the proposed parking lot is not a permitted use because a parking lot is accessory to a permitted use and the Director's finding is unsupported by substantial evidence.
3. The Director erred in applying the purpose statement of the Commercial Forest Use zoning district because the purpose statement is not an applicable approval criterion. MCC 11.15.6420 and .6426 do not list MCC 11.15.2042. The purpose statement is an aspirational statement and is not a mandatory approval criterion.
4. The Director erred in denying the application by applying minimum parking requirements.
5. The Director erred in denying Statewide Planning Goals 4 and 5 to the decision because they are not applicable approval criteria.
6. The Director erred in treating the 1995 Significant Environmental Concern permit, findings of fact and its conditions of approval as applicable approval criteria.
7. The Director erred in finding that MCC 11.15.6426(B)(1) and (C)(1) are not satisfied.
8. The Director erred in finding that MCC 11.15.6426(B)(1) limits development to one (1) acre. The Director's interpretation is not entitled to deference, is indefensible and clearly wrong and is inconsistent with the plain language of the land use regulation.

9. The Director erred in finding that MCC 11.15.6420(C) is not met.<sup>2</sup>
10. The Director erred in finding that MCC 11.15.6420(F) is not met by applying the 1995 SEC permit condition of approval.
11. The Director erred in finding that MCC 11.15.6420(M) is not met by applying the 1995 SEC permit findings of fact.

#### **Hearings Officer's Findings Regarding Grounds for Appeal**

1. *The Planning Director erred by describing the application as an "after-the-fact" Significant Environmental Concern permit.*

**Findings:** The County's description of the application as "after-the fact" is accurate. The applicants have not explained how the use of this description relates to the approval criteria. The hearings officer has found no such connection. As such, this ground for appeal is meritless.

2. *The Director erred in finding that the proposed parking lot is not a permitted use because a parking lot is accessory to a permitted use and the Director's finding is unsupported by substantial evidence.*

**Findings:** The Director found that "[a] parking lot is not a use permitted outright, or permitted subject to review in a Commercial Forest Use zone district (MCC .2048, .2049 & .2050)." The Director's finding is legally correct. A parking lot is not listed as a permitted use in MCC 11.15.2048, the code section that lists uses permitted outright in the CFU district. Off-street parking and loading "as required by MCC .6100 through .6148" is an accessory use and is allowed if it meets the requirements of MCC 11.15.2054(B). MCC 11.15.2054 categorizes parking as an "accessory use," a different use category than a use permitted outright. The Director's finding that the lot is not a permitted use is a conclusion of law that is amply supported by law.

Mr. Robinson's written argument asserts that the Director erred in finding that the size of the parking area proposed by the applicant is too large to be "customarily" accessory to a residential dwelling. This claim was not, however, plainly stated in this assignment of error. In the light most favorable to the appellant, the word "permitted" might be read to mean "allowed." In that light, the claim would be that the Director made a mistake by finding that the Bowen's parking lot was not allowed because (1) a parking lot is an

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<sup>2</sup>The applicant's Notice of Appeal contains no Item 9. The hearings officer has not perpetuated this error. As a result, Items 9 -11 are not numbered as shown in this Decision.

accessory use;<sup>3</sup> and (2) because the conclusion that the use is not allowed is not based on substantial evidence.

The fact that parking is classified as an accessory use by the CFU zoning district does not mean that any parking whatsoever is allowed. The accessory use provisions of the CFU district clearly state that parking "as required by MCC .6100 through .6148" is only allowed if it is "customarily accessory or incidental" to a permitted use.

The Directors' decision to find that the parking lot is not an accessory use was based on a number of legal and factual conclusions. The Director "did not concur" with the applicant's assertion that the spaces proposed (a total of 37 to 43 parking spaces with the 1995 approved spaces and the new spaces) is accessory to a single family residence.<sup>4</sup> This refusal to "concur" is not erroneous where, as here, the evidence presented to the Director on the "customarily accessory or incidental" issue consisted solely of statements of legal conclusions.

In a quasi-judicial land use proceeding, the burden of proof is on the applicant, not the County. This means that the County is not required to present any evidence, much less "substantial evidence" before it concludes that an applicant has not demonstrated compliance with an approval requirement.<sup>5</sup> The application and supplemental materials provided to the Director simply stated a legal conclusion – that "[s]uch a parking area is customary as an

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<sup>3</sup>The hearings officer notes that Mr. Robinson said "a parking lot" rather than "the Bowen parking lot" in this ground for appeal. The language chosen by Mr. Robinson presents a legal claim the Bowen parking lot is allowed because a parking lot is permitted in the CFU zone. This argument is consistent with the approach taken in the application, which is that the amount of parking proposed is irrelevant because parking, without any limits, is allowed by the CFU zoning district.

<sup>4</sup>The 1995 GEC permit authorizes 13 parking spaces around the entrance to the building and, presumably, in the Bowen's garage. All of the approved parking areas were not built as shown on the approved 1995 site plan, however, no aspect of the new approval would remove the Bowen's ability to develop all of the 13 approved spaces. It is obvious that some parking occurs in the approved parking area but the total number of current spaces in the approved area is not clear.

<sup>5</sup>The record may more reasonably be said to have lacked "substantial evidence" supplied by the applicants upon which the County could have concluded that the second, new parking area was customarily accessory or incidental to the single-family residence.

accessory use for like dwellings in the area”<sup>6</sup> and that “[t]he parking area is an accessory use to the dwelling.”<sup>7</sup> No evidence regarding the amount, location or type of parking arrangements for other single family residents was presented. On that record, the Director’s conclusion was proper.

The applicants presented some very general evidence regarding parking on other properties at the land use hearing. This evidence does not bear on the question whether the Director’s decision was based on substantial evidence as it was presented long after the Director’s decision was published. The same is true for evidence presented in response to the hearings officer’s questions regarding the Bowens’ needs for parking.

In post-hearing comments, the applicants’ attorney Frank Flynn argued that the County’s 1995 approval of “approximately ten spaces” in conjunction with the dwelling shows that ten spaces are accessory to an approved use. The flaw with this argument is, however, that approval of the new application will allow the construction of a second parking area, in addition to the thirteen spaces approved in 1995. The approval of a large number of parking spaces in the first proceeding does not logically support the approval of the same or a greater number of spaces in addition to the previously approved parking. This argument is also outside of the scope of the issues raised in the appeal and, therefore, does not support reversal of the Director’s decision.

3. *The Director erred in applying the purpose statement of the Commercial Forest Use zoning district because the purpose statement is not an applicable approval criterion. MCC 11.15.6420 and .6426 do not list MCC 11.15.2042. The purpose statement is an aspirational statement and is not a mandatory approval criterion.*

**Findings:** The Director listed the purpose section of the CFU District as an applicable approval criterion. The Director did not, however, treat the purpose section itself as an approval criterion for the SEC permit. Rather, the Director properly considered the purpose section of the CFU zoning district as an aid in interpreting the meaning of the CFU zone’s accessory use provisions regarding parking. This is a reasonable and appropriate use of the purpose statement.<sup>8</sup> This use is consistent with ORS 197.829(1) that requires local

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<sup>6</sup>October 30, 1998 Application, p. 2.

<sup>7</sup>April 29, 1999 letter to Derrick Tokos from Mike Robinson, p. 5.

<sup>8</sup>It is remarkable that applicants make this argument when they rely upon the purpose of the County’s parking district to support their arguments in opposition to imposing parking restrictions.

interpretations of land use laws to be consistent with the purpose or underlying policy of the law.

It is also fundamental that the applicants must establish that the use proposed is allowed by the applicable, underlying zoning district before an SEC permit may be approved. Marquam Farms v. Multnomah County, \_\_\_ Or LUBA \_\_\_ (LUBA No. 95-254, 12/5/96); *aff'd* 147 Or App 368, 936 P2d 990 (1997). As a result, the use restrictions of the CFU zoning district are relevant approval criteria for an SEC permit and need not be set forth in MCC 11.15.6420 and .6426 to be applicable to the review of an SEC permit for land located in the CFU zoning district.

4. *The Director erred in denying the application by applying minimum parking requirements.*

**Finding:** The Director did not deny the application by applying minimum parking standards as an approval criterion. The Director denied the application because the applicants failed to establish that the amount of parking proposed was customarily accessory or incidental to a dwelling. The hearings officer finds that the Director's decision was proper, based on the evidence before the Director, because the record lacked any facts, as opposed to statements of legal conclusions to support a finding that the parking was customarily accessory or incidental to the use of the Bowen residence.

The Director found the County's parking code minimum is 2 stalls and said that this "requirement" of a minimum of two spaces was exceeded in 1995. This conclusion was stated to support the Director's finding that the Bowens' parking lot was not customarily accessory or incidental to a single-family residence in a CFU zoning district. Nothing in the language of the Decision, however, indicates that the 2 stall minimum was, itself, applied as a maximum parking limit or a mandatory approval criterion. In fact, staff recognized that 13 parking spaces are authorized for the property by the 1995 permit.

In the event it is determined that the Director erroneously "applied" a two stall limit in making this decision, the hearings officer finds that the Director's conclusion that the applicants had not proven that the large amount of parking proposed was not customarily accessory or incidental was correct. This was due to the fact that the applicants chose to argue that the "customarily accessory or incidental" test did not apply.<sup>9</sup>

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<sup>9</sup>This conclusion is based upon the evidence presented to the Director as the allegations of error in the Notice of Appeal are keyed to the propriety of the Director's

5. *The Director erred in denying Statewide Planning Goals 4 and 5 to the decision because they are not applicable approval criteria.*

**Finding:** Goals 4 and 5 are not applicable approval criteria in the County's review of this application. The Director did not, however, deny the application on the basis of the requirements of either goal. This is plain from the language of the Director's decision. The Decision states "[l]and uses are strictly regulated by Multnomah County to ensure compliance with two Statewide Planning Goals, Goal 4 . . . and Goal 5. . . This . . . SEC permit has been required to demonstrate compliance with Goal 5." The SEC permit process and the County's strict regulations are the tools that provide compliance with Goal 5. No provisions of the Goal 4 or Goal 5 rules themselves were addressed or considered by the Director.

6. *The Director erred in treating the 1995 Significant Environmental Concern permit, findings of fact and its conditions of approval as applicable approval criteria.*

**Findings:** It is clear in the law that the conditions of the 1995 GEC/Wildlife permit application are binding on the Bowens. As a general rule, the conditions of a land use approval are binding as an intrinsic part of the approved use until such time as a land use applicant files an application to modify the conditions of approval of the permit, obtains approval of a new land use permit or discontinues the approved use.<sup>10</sup> The Bowens have not taken any action to directly amend the conditions of the 1995 GEC permit. Instead, they have applied for an SEC permit to develop a portion of their property in a way that will violate the conditions of approval of the 1995 permit. In particular, they plan to place a parking lot, driveway and pool in an area that Wildlife Habitat Condition 4 requires be revegetated with native vegetation.

The conditions of approval of the 1995 GEC permit are key to the legality of the existing residence. They were developed to mitigate the negative impacts caused to the area's wildlife resource by the development of the Bowen home on a portion of the property where the County's clear and objective home

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conclusions. As it is not logically possible for those actions to have been made based on subsequently filed evidence, such evidence is not relevant to a determination of whether the Director erred.

<sup>10</sup>The hearings officer's discussion of other possible approaches is not a finding that Multnomah County's zoning ordinances authorize these approaches as this is question is purely academic at this time. Many Oregon jurisdictions have specific provisions to authorize one or more of these means of changing a prior decision.

siting regulations prohibited development. In return, the Wildlife Conservation Plan was adopted and was to have been followed by the Bowens. That Plan clearly states that areas outside of the cultivated area would be restored to native vegetation by planting species indigenous to the site and surrounding wildlife areas. In order to relieve the Bowens of this legal obligation that is created by the issuance of the 1995 permit, one must find explicit code authorization for such action or grant a new permit for the activity previously sanctioned.

Additionally, as the applicants wish to retain their residence, they are bound to honor their legal obligation to revegetate the area that is proposed for development in the pending SEC applications. It is a long-settled rule of law that it is not permissible for persons to agree to commit an illegal act. In the context of this proceeding, it is clearly not appropriate for the County and the applicants to agree to proceed with land use activities that will violate a lawfully issued, valid land use permit. Most critically, the conditions of the initial permit were imposed to assure compliance with relevant approval criterion. Without said conditions, the permit would have been denied. It would be unthinkable for the County to claim it could remove conditions of approval it was legally required to include in the 1995 decision by applicable approval criteria without first determining that the criteria applicable to the use will still be met. In this context, it was not error for the Director to treat these obligations as approval criteria.

It is also clear that the conditions of the 1995 decision must be met as a precondition of parking lot development. The parking use requested is an accessory use. A single family residence must exist on the property for the parking lot use to be allowed by the County. The Bowens' right to maintain their residence on their property is conditioned upon their compliance with the conditions of the permit approval, conditions they have unquestionably violated. At present, therefore, there is no legally authorized single-family dwelling on the property to which the proposed parking can be considered "accessory." Until such a lawful dwelling is established, no "accessory" parking areas may be approved on the property.

The hearings officer's analysis of this issue is consistent with MCC 11.15.9052(B). That section prohibits the hearings officer from granting any land use approval for the Bowen property because the property is subject to a County enforcement action unless the permit requested by the applicants will "correct" the land use violation. In this case, the requested permit will not correct the violation – it will simply grant approval to a use that will violate the 1995 permit. MCC 11.15.9052(B) does not make an otherwise unlawful activity lawful. It merely gives the hearings officer the right to approve a

permit if all other conditions precedent to its approval are satisfied, notwithstanding the fact that violation proceedings have been instituted.

The applicants claim they were told by County staff that they could correct their violation of the 1995 GEC permit by applying for a GEC and SEC permit. What is very clear in the record, however, is that Mr. Tokos told the applicants that he did not see how the application that was filed by applicants could satisfy the Significant Environmental Concern criteria. Mr. Tokos then discussed other options that were available to the applicants. The applicants chose not to pursue those more promising alternative approaches. See Exhibit B2, 12/2/99 Letter from Derrick Tokos to Walter & Janet Bowen.

The applicants claim that the pool, home and driveway are "not implicated" by the activities prompting the County's enforcement action is clearly wrong. The new activities will make it impossible for the Bowens to comply with the conditions of the 1995 Plan and permit, conditions that are essential to the continued conduct of the 1995 approved uses on the Bowen property. The 1995 approved structures and facilities are allowed on the property upon the clear condition that the entire property be maintained as required by the 1995 approved Wildlife Conservation Plan. As a result, the permit application, at a minimum, should have addressed the entire property.<sup>11</sup>

7. *The Director erred in finding that MCC 11.15.6426(B)(1) and (C)(1) are not satisfied.*

**Findings:** MCC 11.15.8290 (B)(3) requires that the "specific grounds" relied upon for reversal must be stated in the Notice of Appeal. This assignment of error does not provide any explanation what error occurred. As the hearings officer's scope of review is limited to specific grounds raised in the Notice of Appeal, the applicant's 7<sup>th</sup> ground for appeal furnishes no basis for reversal of the Director's findings.

8. *The Director erred in finding that MCC 11.15.6426(B)(1) limits development to one (1) acre. The Director's interpretation is not entitled to deference, is indefensible and clearly wrong and is inconsistent with the plain language of the land use regulation.*

**Findings:** The Hearings Officer agrees with appellants that MCC 11.15.6426(B)(1) does not limit development of the subject property to one acre. The area of the proposed development was a non-forested clear area in 1995 when the GEC permit was approved. After GEC approval, this area became a non-forested

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<sup>11</sup>Whether the County's zoning code authorizes or prohibits the use of this approach is not an issue that was raised by the appeal or decided by the hearings officer.

clear area that was burdened by an obligation to be planted with native vegetation. See Condition 4 of Wildlife Habitat Review, GEC 19-95.<sup>12</sup> This fact, however, is not material to a decision of this case as the Bowens have elected to proceed under MCC 11.15.6426(C) rather than .6426(B). As a result, MCC .6426 (B) is not a relevant approval criterion for this application.<sup>13</sup> The Director's error, however, does not warrant reversal of the Director's decision as other valid grounds for denial remain.

9. *The Director erred in finding that MCC 11.15.6420(C) is not met.*<sup>14</sup>

**Findings:** MCC 11.15.8290 (B)(3) requires that the "specific grounds" relied upon for reversal must be stated in the Notice of Appeal. MCC 11.15.8295(A). This assignment of error does not provide any explanation of the reason an error is alleged to have occurred. Without this information, this ground for appeal does not provide a basis for reversal of the Director's decision.

10. *The Director erred in finding that MCC 11.15.6420(F) is not met by applying the 1995 SEC permit condition of approval.*

**Findings:** The decision does not apply the 1995 SEC permit as a condition of approval in its findings regarding MCC .6420(F). Instead, the Director finds fault with the applicants' failure to explain how development of an area that the applicants agreed to commit to wildlife habitat rehabilitation will "protect" significant wildlife habitats." The 1995 permit is clearly relevant to a consideration of the nature of the area in question and the removal of that area from a wildlife rehabilitation obligation logically affects area wildlife. The Director did not err in considering the impact that the 1995 permit has upon the status of the Bowen property.

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<sup>12</sup>Condition 4 requires: "Cleared portions of the subject site should be replanted with native vegetation in conformance with all applicable Multnomah County codes (MCC 11.15.2074, .6426, et. al.) to enhance the wildlife habitat resource."

<sup>13</sup>It appears the Director meant to refer to MCC 11.15.6426(C)(3)(b) which limits the newly cleared area associated with development to an area of no more than one acre, "excluding from this total the area of the minimum necessary required for fire safety purposes." That section does apply to review of the Bowen's land use application. The hearings officer's decision addresses .6426(B), however, as that is the section cited in the decision and Notice of Appeal regarding the cleared area issue.

<sup>14</sup>The applicant's Notice of Appeal contains no Item 9. The hearings officer has not perpetuated this error. As a result, Items 9 -11 are not numbered as shown in this Decision.

It is less clear to the hearings officer that the area, in question, would be "significant habitat" and that if "significant," that County codes would support a no development condition.<sup>15</sup> This issue is raised in applicants' legal arguments and application but was not raised in the Notice of Appeal. As such, it is not a basis for reversal of the Director's decision. See discussions of this issue, above.

11. *The Director erred in finding that MCC 11.15.6420(M) is not met by applying the 1995 SEC permit findings of fact.*

**Findings:** MCC .6420(M) requires that any area "which has an identified need for protection of the natural vegetation" must be retained in a natural state to the maximum extent possible. The Director treats the 1995 decision as having identified a need to protect natural vegetation in the new development area. This approach is reasonable and correct. The 1995 decision is binding on the applicants and identifies a need to protect natural vegetation by reestablishing natural vegetation in the areas that would developed if the 1998 SEC application is approved.

The applicants argue that MCC .6420(M) does not apply to their development as no natural vegetation exists in this area nor has it ever existed in this location.<sup>16</sup> This grounds for reversal is not raised in the Notice of Appeal and, therefore, does not furnish a basis for reversing the Director's determination that the applicants had not demonstrated compliance with MCC .6420(M).

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<sup>15</sup>If all land designated SEC Wildlife is significant, the protection requirement of MCC .6420(F) cannot be read to require preservation of all areas of the Bowen property as other provisions of the County code plainly allow some development. MCC 11. 15.6404(A); .6409(E).

<sup>16</sup>While the applicants' argument is factually correct, it ignores the fact that native vegetation should be and would be growing on this area of the Bowen property if the Bowens had honored their promise and legal obligation to revegetate this area of their property.

Based on the foregoing findings of fact, the Hearings Officer finds that none of the Bowens' Notice of Appeal does not provide grounds to merit reversal of the Director's decision to deny the Bowens' request for approval of an SEC Wildlife Permit. The Director's decision of denial, therefore, is **AFFIRMED**.<sup>17</sup>

Dated this 19<sup>th</sup> day of September 1999.



Liz Fancher  
Multnomah County Land Use Hearings Officer

Attachment: Exhibit List

### NOTICE OF APPEAL RIGHTS

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The Hearings Officer's Decision may be appealed to the Board of County Commissioners (Board) by any person or organization who appears and testifies at the hearing, or by those who submit written testimony into the record. An appeal must be filed with the Transportation and Land Use Planning division within ten days after the Hearings Officer decision is submitted to the Clerk of the Board. An appeal must comply with all procedural requirements prescribed by the Multnomah County Code, including completion of a Notice of Review and payment of a fee of \$500.00 plus a \$3.50 per-minute charge for a transcript of the initial hearing(s). [ref. MCC 11.15.8260(A)(1) and MCC 11.15.9020(B)] Instructions and forms are available at the Planning Office at 1600 SE 190<sup>TH</sup> Avenue, Portland, Oregon, or you may call 503-248-3043 for additional instructions.

**THIS NOTICE IS PROVIDED AS A COURTESY TO THE PARTIES. PLEASE, HOWEVER, CONSULT THE APPLICABLE PROVISIONS OF THE MULTNOMAH COUNTY LAND USE CODE, DULY ADOPTED COUNTY FEE SCHEDULES AND STATE LAW TO ASSIST YOU IN COMPLYING WITH ALL FILING REQUIREMENTS. IN THE CASE OF A CONFLICT BETWEEN THIS NOTICE AND THE LAW, THE PROVISIONS OF THE LAW CONTROL.**

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<sup>17</sup>Mr. Tokos stated that a plan for a "natural pond" could be approved by the County. As the pond was not approved and no issue cited in the Notice of Appeal warrants a change in the Decision or clearly raises the issues about the pond that could support reversal of the decision (e.g. the pond is allowed by the 1995 permit approval as natural vegetation and habitat enhancement), the hearings officer did not change the Director's decision.





CASE NAME: Sauvie Island Moorage Variance

NUMBER: WRG 6-98 & HV 16-98

1. Applicant Name/Address

Grant Johnson
17117 NW Sauvie Island Rd.
Portland, OR 97231

2. Action Requested by Applicant

Applicant appealed the denial of the rear yard setback standards in the MUA-20 zone. The applicant requested approval to allow two enclosures for trash receptacles to be situated within a 30 foot rear yard setback.

3. Planning Staff Recommendation

Staff recommended that the Hearings Officer uphold the Planning Director's Decision of WRG 6-98 & HV 16-98.

4. Hearings Officer Decision

The Hearings Officer affirmed the Planning Director's decision with modifications to allow the appellant to retain the existing 10' wide boat garage access drive and monument signs in their current location.

5. If recommendation and decision are different, why?

NA

Action Requested of Board
[X] Affirm Hearings Officer Dec.
Hearing/Rehearing
Scope of Review
[ ] On the record
[ ] De Novo
[ ] New information allowed

ISSUES

(who raised them?)

6. The following issues were raised:

The applicant had filed a notice of appeal stating that the Hearing Officer, in adopting conditions of approval and interpretations of law beyond her jurisdiction.

7. Do any of these issues have policy implications? Explain: None identified at this time.



DEPARTMENT OF ENVIRONMENTAL SERVICES  
TRANSPORTATION AND LAND USE PLANNING DIVISION  
1600 SE 190<sup>TH</sup> AVENUE  
PORTLAND, OREGON 97233  
(503) 248-3043 FAX: (503) 248-3389

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*HEARINGS OFFICER'S DECISION ON APPEAL*

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Major Variance and Willamette Greenway Permit

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**File Number:** HV 16-98 & WRG 6-98  
**Applicant:** Bayard Mentrum, Architect  
**Appellant:** Karen Carey, Owner Sauvie Island Moorage by Bayard Mentrum  
**Location:** 17505 NW Sauvie Island Road, Portland, Oregon  
**Zoning:** Multiple Use Agriculture (MUA-20) and Willamette River Greenway (WRG)

PLANNING SECTION  
MULTNOMAH COUNTY

53 SEP -7 PM 1:28

RECEIVED

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**APPEAL**

On June 29, 1999, the Planning Director issued a decision denying an application for approval of encroachments for approval of a Major Variance and Willamette River Greenway permit. On July 9, 1999, Bayard Mentrum filed an appeal of the Planning Director's decision. The Notice of Appeal indicates that Mr. Mentrum filed the appeal on behalf of the property owner, Karen Carey. The grounds of appeal, as summarized by the Hearings Officer are:

1. Trash Enclosures/Portals. Staff erred in finding that the trash enclosures are within 30 feet of the ordinary high water mark. While the portal and trash enclosures are 15 feet from the property line they are more than 30' from the high water mark. The trash enclosures adjoin the portals, as shown on the prior, approved plan and allow easy access by trash haulers and residents of the moorage. The owners have improved the appearance of the trash enclosures and the enclosures are screened from the river. It is logical to leave the portals where they are based on its relation to the pedestrian bridges and trash enclosures. The owners obtained a building permit for the portals and enclosures before they were constructed and thought this was all they needed.
2. Stone Monument Sign. "The site is narrow and the entry drives drop off quite steeply. The sign was located within the front yard setback so it could be seen from Sauvie Island Road rather than down the hill and obscured. There is a wide shoulder on the

road and I again drove out of the road by the sign and could easily see both directions down the road without sticking out into the pavement. The owners have stated that no one has complained about not being able to see both directions because of the curves in the roadway. The owners have again improved the appearance of the project without endangering the life and safety of anyone. We feel that if anyone from planning drove up the driveway by the sign they would see it does not block any vision clearance areas. Drivers used to go off the road on the curve going southeast on Reeder Road and now they see the sign and avoid this danger.”

3. Driveway to Storage Units. “A 10-foot wide asphalt drive was changed from the original 4-foot wide sidewalk to allow trucks to back down the drive to load and unload in the storage areas over the garages. This driveway will only be used when someone is moving in or out of the storage units and there is clear visibility to the entry drive. Staff states in there [sic] administrative decision, that hazard conditions may exist, but no one has complained to the owners about a problem and I personally drove through the sign and could easily see both directions and I suggest someone from planning do the same before passing judgment.”

Under the County’s procedures ordinance, the hearings officer’s review is limited to the issues set forth in the notice of appeal.

#### **NATURE OF DECISIONS APPEALED**

The WRG permit application is essentially a request for the approval of a site plan that would replace the site plan approval granted in 1997 in Case DR 7-96/WRG 8-96/HV 21-96.

The Major Variance application is a request for permission to place structures within 15’ of the rear property line. Approval of the request would effectively modify Condition of Approval 7 of DR 7-96/WRG 8-96/HV 21-96 to allow the trash recycle area to be located within the 30-foot rear yard.

#### **DECISION**

The hearings officer **AFFIRMS** the administrative decision issued by the Planning Director, with the following modifications:

1. Approve a modification of the 1996 site plan, WRG 8-96, as proposed by the site plan for WRG 6-98, to allow the Appellant to retain the existing 10’ wide boat garage access driveway and monument signs in their current location. All other modifications proposed by the WRG 6-98 site plan are denied.
2. Approve a modification of the 1996 site plan, WRG 8-96, as proposed by the site plan for WRG 6-98, to allow the applicant to retain the monument sign and walls in the clear vision area triangle in its current location. Both walls must, however, be reduced

in height so that they are less than three feet in height. The sign height must be lowered no later than sixty days after this decision becomes final.

The listed modifications are the only modifications allowed. All other revisions proposed in WRG 6-98 to the site plan and design review application approved in Multnomah County Case WRG 8-96/DR 7-96/HV 21-96 are DENIED.

## **FINDINGS AND CONCLUSIONS**

The hearings officer makes the following findings and conclusions of law in support of the above decision:

### **Monument Walls**

1. The portion of the appeal that requests a variance to place the monument sign within the 30' front yard setback was withdrawn by attorney Larry Epstein on behalf of Grant Johnson and Sauvie Island Moorage Company, Inc. in a letter dated August 17, 1999. County Staff Planner Tricia R. Sears and the applicant have agreed that a variance is not necessary as signs may be placed in the 30' front yard of the subject property due to the provisions of MCC .7964(F). This means that it is possible for the hearings officer to allow the applicant to leave the entrance monument sign in its current location, provided both monument walls (one on each side of the driveway) are lowered to comply with County site distance regulations. Those regulations require that both walls must be less than three feet in height.
2. In the current case, Sauvie Island Moorage, Inc. proposes that the County approve a new site plan for the moorage to replace the moorage site plan approved by the County in 1997 (WRG8-96/DR7-96/HV21-96). The County denied that request. The 1997 approved site plan, however, shows the monument walls in a different location on the moorage property than agreed to by the moorage and County staff. The hearings officer, therefore, approves that portion of the current site plan (WRG6-98) that shows the monument walls in their current location. The hearings officer does not, however, approve the current height of the structures and will require that the walls be lowered, as promised by the applicant. As the walls pose potential conflicts with vehicle sight distance, the applicant lower the wall no later than sixty days after this decision is final.

### **Driveway**

3. The applicant built a driveway between the boat storage buildings and Sauvie Island Road, in a location where the 1997 site plan called for the construction of a pedestrian walkway. In the current matter, County staff denied approval of an amendment to the 1997 plan due to safety concerns. Thereafter the applicant obtained a professional engineering analysis of site safety from the MacKenzie Group. The engineer's report found that the driveway would not pose a safety hazard due to the low volume of

traffic that will use the entry, the even more infrequent use of the storage building driveway and the fact that there is good visibility at the intersection of the driveways. Based upon the engineering report, County staff recommended that the applicant be allowed to retain the driveway, as presently constructed. As the conclusions of the engineering report were not rebutted, the hearings officer accepts the finds and will allow a modification of the approved site plan to include the 10'-wide, boat storage building driveway.

### **Impact of 1997 Approval**

4. The appellant argued that the 1997 County approval of DR 7-96/WRG 8-96/HV 21-96 allowed it to site the portals and trash enclosures in their current location and that the site plan showed a 30-foot setback between the shoreline and "the structures." The appellant's attorney further claims "one finger needs to be wagged in the direction of staff who failed to undertake a sufficiently thorough analysis of the 1997 application to identify the setback problem before the structures in question were built, only to spring the issue on the applicant during the inspection process. The appellant and his attorney are clearly in error on this point. Condition 7 of the 1997 decision specifically required that the trash enclosures comply with the 30-foot setback. The 1997 site plan also clearly shows that the gate/portal will be located 30' from the property line, not 30' from the river. The site plan plainly shows a 30' setback and uses the property line to calculate setbacks. The appellant's architect used the same type of line on all four of the property boundaries making it clear that the line on the site plan near the river is the property line. The 1997 site plan shows a line between the property line and at the gate/portal. The line includes a crosshatched line at the property line and gate/portal structure and the notation "30' SETBK" and "30'" immediately adjacent to the crosshatched line. The plan also plainly shows that the portal was intended to be located at the back of the parking spaces, not at the front of the spaces where the portal and trash enclosure are currently located.

### **Variance Arguments**

5. Mr. Epstein provided the County with a number of very well presented arguments to support approval of a variance to the 30' rear yard setback requirement imposed by the MUA-10 zoning district. Variance applications are, however, disfavored by the law and the facts of this case simply do not fit the requirements for variance approval. As a result, the hearings officer must uphold staff's denial of the variance application.
6. The appellant offers two circumstances or conditions to justify approval of the variance: the narrowness of the Sauvie Island Moorage property and the fact that the use is a moorage. Under the County's approval criteria one or the other must present "practical difficulties" in complying with the County's setback requirements for the MUA-10 zoning district. The conditions must also "not apply generally to other property in the same vicinity or district."

- 
7. The main obstacle that prevents approval of the variance application is the fact that the unusual conditions and circumstances cited by Mr. Epstein do not prevent the property owner from complying with the law. As documented by County staff and conceded by the applicant/appellant, there is room on the subject property to place the portal and garbage structure enclosures in a location that complies with the County setback rules. Multnomah County interprets its variance criteria to require the denial of variances to allow development in the most suitable area of a property where it is possible to develop in another less convenient area of the property, absent a showing the alternate location is "unduly restrictive." Evans v. Multnomah County, 34 Or LUBA \_\_\_\_ (LUBA No. 96-198)(1997).
  8. The rejection by the County of "convenience" as a reason for the approval of a variance is consistent with the reasoning of Oregon Court of Appeals decisions that hold that "[v]ariations traditionally have been considered escape valves to allow property owners relief from zoning restrictions which, when applied to particular land, have the result of making that land completely unusable, or usable only with extraordinary effort." Erickson v. City of Portland, 9 Or App 256, 261, 496 P2d 726, 729 (1972). In the case of the Sauvie Island Moorage, the property is usable without "extraordinary effort." The structures can be placed in the locations required by the County code and this may be accomplished with about the same amount of effort that the structures can be placed in the current, nonconforming location.
  9. A portal and trash enclosure 15' closer to Sauvie Island Road than where presently located is, admittedly, less convenient a location for the structures from the point of view of the moorage owner and moorage residents. Moving the structures will make it difficult or impossible for the moorage users to use the area between the portal and trash enclosure for parking and driving uses. It will also require residents to walk an additional 15' to dispose of their garbage. This does not, however, make the setback requirement "unduly restrictive" or capable of compliance only with "extraordinary effort." It also does not make the portals "functionless," as claimed by the appellant's attorney. The portals were originally designed and planned for a site further inland. Certainly the appellant's architect would not have shown the portals in such a location if such a location is, in fact, functionless.
  10. The specific needs of marinas make it logical and efficient to apply different setbacks to the rear yards of a property, adjacent to the river, when the distance between the property line and riverbank is small. The "practical difficulties" requirement is not, however, met when the purpose of the variance is facilitate the best and most efficient and complete utilization of a property. Lovell v. Planning Commission of City of Independence, 37 Or App 3, 5-7, 586 P2d 99 (1978)(better utilization of a site is not a practical difficulty).
  11. The portals identify the entrances to the gangways. By placing the portals as close to the edge of the bank as possible, it is possible for residents to begin descending immediately after passing through the portal and this is certainly most convenient and

efficient. As argued by Mr. Epstein, this arrangement “makes sense.” Portals may, however, be located further back in the parking area (15’ more is needed), behind the setback line. The area between the portal and the top of the gangway may be fenced to provide a walkway area between the portal structure and the top of the gangway. This arrangement will, in the opinion of the hearings officer, be less attractive but not infeasible.

12. The narrowness of Sauvie Island Moorage lot and the County’s yard requirements present physical limitations upon the amount of development that may occur on the moorage property. The narrowness does not, however, prevent the applicant from meeting the rear yard setback requirements of the MUA-20 zone. The narrowness of the moorage lot also has a much lesser impact on a moorage use than on any other use in the zoning district. The moorage owner uses the river, not the lot, as the location for homes and is not required to locate homes behind the required yards. This conclusion is illustrated by the following facts: The moorage lot is only 5.56 acres, far smaller than the 20-acre minimum lot sized required by the MUA-20 zone but supports 46 home sites. A similarly situated property owner who wished to place a single family dwelling on such a small site would be limited to a maximum of one or two dwellings (two dwellings if each of the two parcels that make up the 5.56 acres were qualified as a lot of record). The siting of the one or two houses would be strictly limited by the 30’ setbacks that apply to both the front and rear of the lot, in parts of the lot to a 30’ wide area.<sup>1</sup>
13. The fact that the use proposed is a moorage use does not prevent compliance with the yard requirements of the MUA-10 zoning district. The moorage’s use of the river as for home sites simply makes a riverside trash and portal location logical, appealing and convenient for owners of floating homes.
14. A marina use has not been proven to be a circumstance or condition “that does not apply generally to other property in the same vicinity or district.” The appellant’s own evidence shows that there are at least two other moorages (Channel Island Marina and Bridge View Marina) in close proximity of the subject property.
15. The specific needs of marinas may justify an exception to the rear yard setbacks of the County’s zoning ordinance. The proper avenue for making such a change is, however, through the legislative process. Lovell v. Planning Commission of City of Independence, 37 Or App 3, 586 P2d 99 (1978); Hill v. Marion County Board of Commissioners, 12 Or App 242, 506 P2d 519 (1973). This is particularly true, where as here, the difficulties posed by the rear yard setback apply to an entire class of land use (marinas).

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<sup>1</sup> These findings assume that a variance to the 150’ setback would be granted. Otherwise, no home could be sited on the subject property.

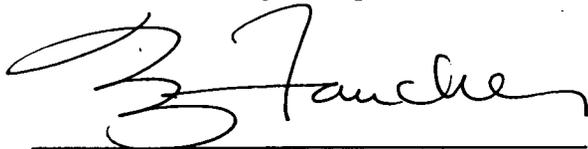
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16. Mr. Epstein has argued that the County has adopted an interpretation of the term “practical difficulties” in its recent decision of the Protassy appeal (HV 7-98, CU 4-98) and that the staff decision is inconsistent with that approval. Mr. Epstein insists that the County must provide a reasonable basis for imposing an inconsistent interpretation. The reasonable basis for reaching a different conclusion in the Protassy case, however, is that the facts of that case are distinguishable from the moorage case. In the Protassy case, the location of mature walnut trees and the location and width of the right-of-way made it impossible to build the 20’ roadway required by County codes. In the moorage case, the setback requirements do not prevent the applicant from building a portal and a trash enclosure and meeting the 30’ setback.
  17. The findings adopted by the Board of Commissioners in the Protassy matter indicate that self-created difficulties (planting new walnut trees) and difficulties that are capable of correction (moving telephone poles) are not “practical difficulties” that support approval of a variance. The Board found that cut and fill activities related to roadway construction merited a greater variance than approved by the hearings officer but did not undercut these findings.
  18. The applicant’s attorney has argued that the hearings officer should adopt an interpretation of the “practical difficulties” requirement that allows the hearings officer to approve a variance when physical conditions make it more safe and “convenient” to apply a lesser legal requirement. The gist of the attorney’s argument is that it is more convenient and logical for the marina and its users to place the trash enclosures and portals in their existing location than in the location required by the County code. This is clearly not the interpretation adopted in the Protassy decision.
  19. Mr. Epstein has argued that the hearings officer must approve the variance with conditions of approval if it is possible to do so. This argument is based upon SB 1184, a bill that was passed by the 1999 Oregon Legislature. That law is not effective until October 23, 1999. It, therefore, does not apply to this decision. Furthermore, even if SB 1184 were effective, it would not require approval of the variance application. SB 1184 requires the County to approve a land use application if the application can be made to be consistent with County land use regulations by the imposition of conditions of approval. Clearly, no condition of approval would change the fact that the moorage application does not qualify for approval of a variance. Additionally, a variance is, itself, a request to be allowed to disregard the County’s land use regulations. Approval of the variance would result in noncompliance with the MUA-20 zoning district’s 30’ rear yard requirement.
  20. Mr. Epstein asked that the hearings officer interpret the term “practical difficulties.” Such an interpretation is not needed, however, because the hearings officer has determined that neither of the practical difficulties asserted by the appellant (narrow lot width and marina use) meet other critical requirements of the variance approval criteria or require the siting proposed by the applicant.

---

## Impact of Hearings Officer's Decision

21. The denial of the variance application and modified site plan application leave the appellant with an approved site plan that requires that the portals and trash enclosures be located where required by the 1997 site plan. It is not permissible for the applicant to leave the trash enclosure in its current location and to simply remove the roof. The current location is not the location authorized by the 1997 decision. The prior site plan made specific provisions regarding the appropriate location for the trash/recycling enclosure and those requirements continue to apply. The 1997 decision included a design review process, as well as a WRG review. The approval relied upon the fact that the trash enclosure would be placed at least 30' from the property line to determine compliance with design review criteria. The 1997 decision also specifically prohibited the appellant from placing the trash recycle area within the 30-foot setback area. Given the fact that the WRG setback is 150 feet, a 30-foot setback already marks a significant departure from the standards that would otherwise apply to the subject property.
  
22. The approval of portions of the appellant's 1998 site plan modification, as outlined in the Decision section above, does not relieve the appellant of its obligation to comply with the landscaping requirements of the 1997 decision and to otherwise comply with the requirements of the 1997 decision.

DATED this 1<sup>st</sup> day of September 1999.



Liz Fancher, Hearings Officer

### NOTICE -- Appeal to the Board of County Commissioners:

The Hearings Officer's Decision may be appealed to the Board of County Commissioners (Board) by any person or organization who appears and testifies at the hearing, or by those who submit written testimony into the record. An appeal must be filed with the Transportation and Land Use Planning division within ten days after the Hearings Officer decision is submitted to the Clerk of the Board. An appeal must comply with all procedural requirements prescribed by the Multnomah County Code, including completion of a Notice of Review and payment of a fee of \$500.00 plus a \$3.50 per-minute charge for a transcript of the initial hearing(s). [ref. MCC 11.15.8260(A)(1) and MCC 11.15.9020(B)] Instructions and forms are available at the Planning Office at 1600 SE 190<sup>TH</sup> Avenue, Portland, Oregon, or you may call 503-248-3043 for additional instructions.

**LARRY EPSTEIN, PC**  
**ATTORNEYS AT LAW**

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209 SW Oak Street Suite 200  
Portland, Oregon 97204-2729  
Telephone (503) 223-4855  
Facsimile (503) 228-7365

Joe Turner  
Also a member of the  
Washington State Bar  
E-mail: joe@mckmor.com

September 17, 1999

Multnomah County Planning Division  
1600 SE 190th Avenue  
Portland, OR 97233

SUBJECT: Appeal in the matter of HV 16-98 and WRG 6-98

Dear County staff:

On behalf of Grant Johnson and Sauvie Island Moorage, Inc., I am appealing the hearings officer's decision regarding the applications listed above. I enclose the following:

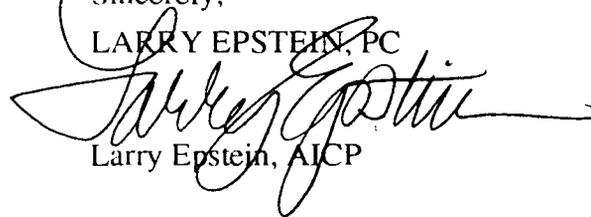
- An appeal form
- A check for \$530 to cover the appeal costs (based on my conversation with Lisa today)
- A letter containing a brief history and the grounds for the appeal.

Please contact Joe Turner at the telephone number listed above if there are any problems accepting this appeal for processing.

Please mail me a receipt for the appeal fee to the address in the letterhead above.

Sincerely,

LARRY EPSTEIN, PC



Larry Epstein, AICP

99 SEP 17 PM 1:37  
MULTNOMAH COUNTY  
PLANNING SECTION



MULTNOMAH COUNTY

DEPARTMENT OF ENVIRONMENTAL SERVICES  
LAND USE PLANNING DIVISION  
1600 SE 190<sup>TH</sup> AVENUE  
PORTLAND, OREGON 97233  
(503) 248-3043 FAX: (503) 248-3100

530.00

**NOTICE OF REVIEW**

1. Name: Epstein Larry , \_\_\_\_\_ , \_\_\_\_\_  
*Last Middle First*

2. Address: 209 SW Oak St., Ste 200, Portland , OR , 97204  
*Street or PO City State Zip Code*

3. Telephone: (503) 223 - 4855

4. If serving as a representative of other persons, list their names and addresses:

Grant Johnson, Sauvie Island Moorage, Inc. 17117 NW Sauvie Island Rd  
*Name Portland, OR 97231 Address Zip Code*

\_\_\_\_\_  
*Name Address Zip Code*

5. What is the decision you wish reviewed (e.g., denial of a zone change, approval of a subdivision, etc.) ?

Denial of a variance

6. The decision was announced by the Hearing Officer on Sept. 7, 1999

7. On what grounds do you claim status as a party pursuant to MCC 11.15.8225?

Representative for the applicant

PLANNING DIVISION  
COUNTY  
93 SEP 17 PM 1:39

Continued on back of form



**LARRY EPSTEIN, PC**  
**ATTORNEYS AT LAW**

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Facsimile (503) 228-7365

Joe Turner  
Also a member of the  
Washington State Bar  
E-mail: joe@mckmor.com

September 17, 1999

Board of County Commissioners  
1120 SW Fifth Avenue  
Portland, OR 97204

**SUBJECT: Appeal in the matter of HV 16-98 and WRG 6-98**

Dear Commissioners:

On behalf of Grant Johnson and Sauvie Island Marina, Inc., I file the enclosed appeal. The purpose of this letter is to provide a little history and to list the grounds for the appeal.

This appeal involves an application for a variance to the rear yard setback standards in the MUA-20 zone. The applicant requested approval of a variance to allow two enclosures for trash receptacles to be situated within a 30-foot rear yard setback. A concise history of the matter follows.

Sauvie Island Marina has been a floating homes moorage for more than 40 years. It is situated on the Multnomah Channel about a mile north of the Sauvie Island Bridge. For many years, trash from the floating homes was stored in cans situated on a pad near the top of the ramp to the moorage. Over time, a second trash storage pad was added near the top of a second ramp to the moorage. At some point, a small enclosure was build around the two trash storage areas, but they were not roofed.

In 1997, the applicant wanted to slightly enlarge the trash enclosures so that they could accommodate storage of recyclable materials pending weekly collection, and he wanted to roof them to better protect them from the elements. He applied for permits to allow that. The planning director approved those applications, and the applicant built them where he thought the planning director approved them. Unfortunately the dimension of the rear yard setback shown on the plans approved by the planning director were not consistent with the reality of where the trash enclosures were situated. The enclosures were not as far from the rear lot line as shown by the dimensions in the plans approved by the planning director. When the applicant identified the error, he applied for a variance to allow them to remain where they were. The requested variance was 15 feet. Photographs of the receptacles are enclosed.

The planning director denied the requested variance to allow the trash receptacles to remain where they are at the top of the ramp. The applicant appealed that decision to the hearings officer. The hearings officer affirmed the planning director's decision and denied the variance. However, in so doing, she adopted what are essentially conditions of approval and interpretations of the law beyond her jurisdiction. It is that portion of the hearings officer's decision that is the subject of this appeal.

Prior to the appeal hearing before the hearings officer, County planning staff advised the applicant that, if the applicant removed the roof of the trash enclosures, it would not be a "structure" as that term is used in the Zoning Ordinance. Therefore it would be permitted to remain where it was, albeit roofless. The applicant relied on this representation in preparing and advocating on behalf of the appeal. It was not an issue that was disputed by staff or the applicant or anyone else at the hearing. Nevertheless the hearings officer usurped the authority of the staff to administer the Zoning Ordinance as it saw fit about matters not relevant to the variance by adopting the following finding:

21. *The denial of the variance application and modified site plan application leave the applicant with an approved site plan that requires the portals and trash enclosures be located where required by the 1997 plan. It is not permissible for the applicant to leave the trash enclosure (sic) in its (sic) current location and to simply remove the roof (sic)...*

The above quoted finding is erroneous as a matter of law for at least the following reasons, which constitute the initial grounds for appeal:

1. The hearings officer cannot impose conditions of *approval* when *denying* an application. The hearings officer denied the variances that were the subject of the matter before her. In effect, the text quoted above constitutes a condition of approval, i.e., requiring the applicant to remove the trash enclosures or move them at least 30 feet from the rear lot line. This exceeded the jurisdiction and authority of the hearings officer given the nature of the matter before her.

2. The hearings officer's finding quoted above amounts to *dicta* that is not necessary for the decision regarding the variance application before her. Therefore it has no binding effect on the manner in which County staff construe the Zoning Ordinance. The Board should excise the quoted finding from the decision as surplusage.

3. The hearings officer's finding above is not supported by findings of fact or law or substantial evidence in the record. It amounts to an arbitrary and capricious pronouncement of the law without benefit of sufficient findings or evidence.

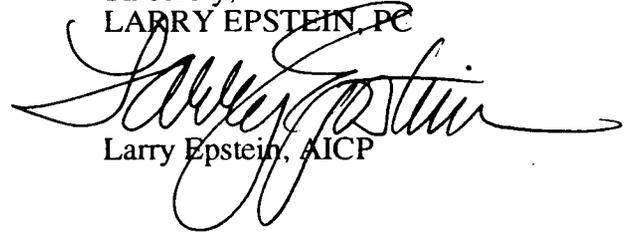
4. The hearings officer's finding quoted above is a misstatement of the law. Approval of an application (e.g., the 1997 applications) does not compel compliance with the application. An applicant can elect not to implement development authorized by a permit. In this case, the applicant could elect to return the trash enclosures to the condition in which they existed before the 1997 decision. That would mean the roofs would have to be removed and the size of the enclosure would have to be reduced slightly. The applicant has a right to have the pre-1997 enclosures remain where they are pursuant to nonconforming use regulations and statutes.

5. The hearings officer's finding quoted above denied the applicant due process of law, because the substance of that finding, (i.e., whether the Zoning Ordinance allows the applicant to retain the enclosures where they are if the applicant removes the roofs), was not identified in any way as an issue in the case until the hearings officer issued her decision. That is, neither the County staff nor the applicant nor any other witness raised the issue or had an opportunity to respond to the issue. The finding quoted above amounted to a "surprise" to all participants. It denies the applicant due process of law to fail to identify a relevant issue before the record closed and to deny him an opportunity to respond to an issue that was part of the decision.

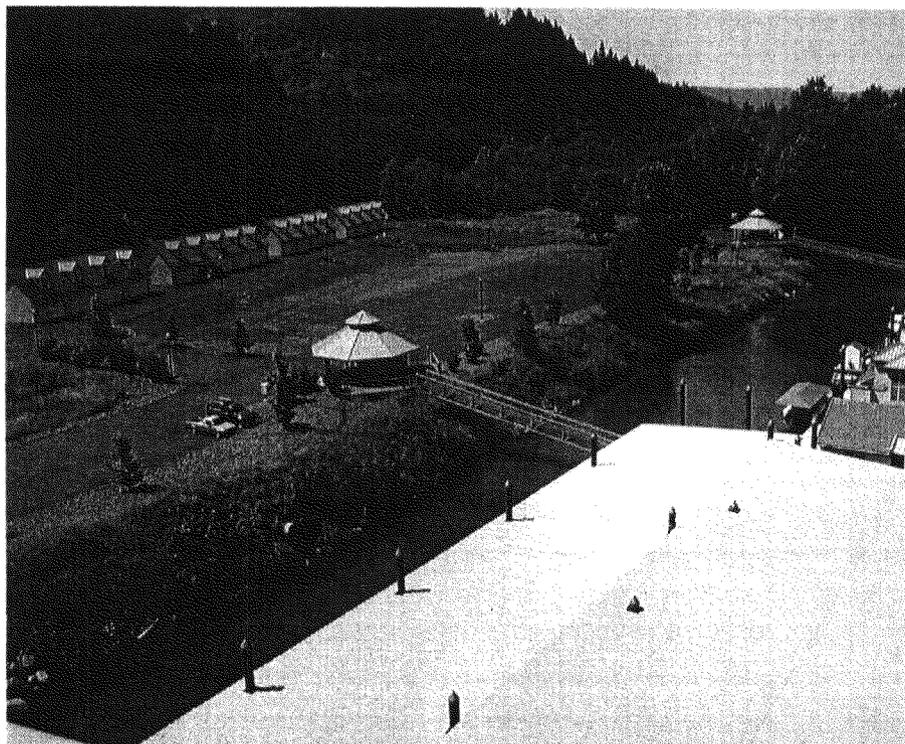
6. If the roofs are removed from the trash enclosures, they do not constitute "structures" for the purposes of the Zoning Ordinance. Therefore they should be allowed to remain where they are if the roofs are removed.

I look forward to the opportunity to present this matter to you.

Sincerely,  
LARRY EPSTEIN, PC

A handwritten signature in cursive script, appearing to read "Larry Epstein".

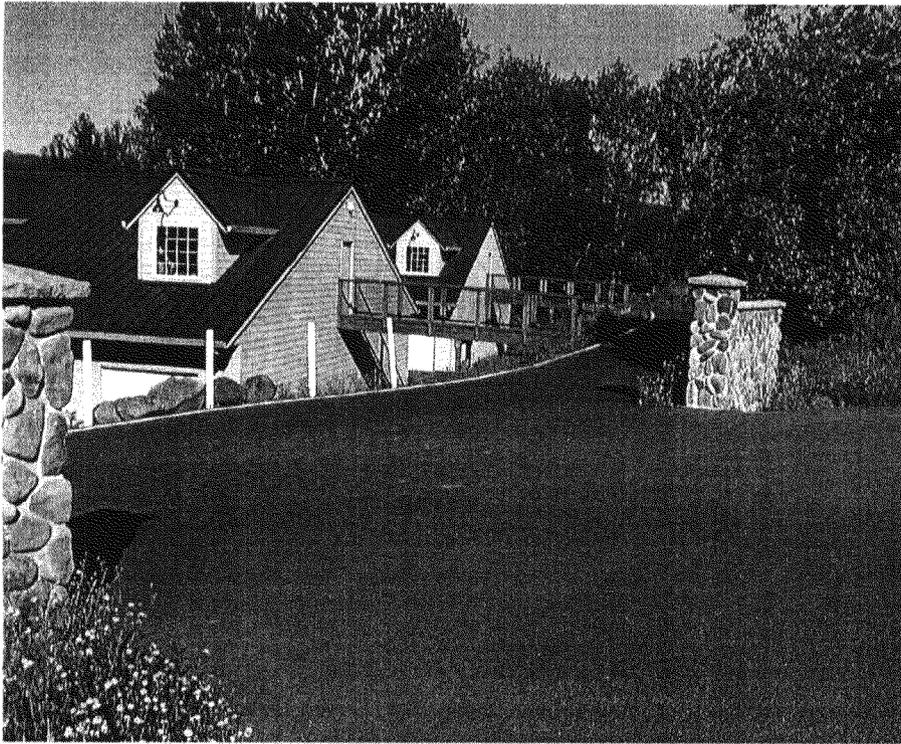
Larry Epstein, AICP



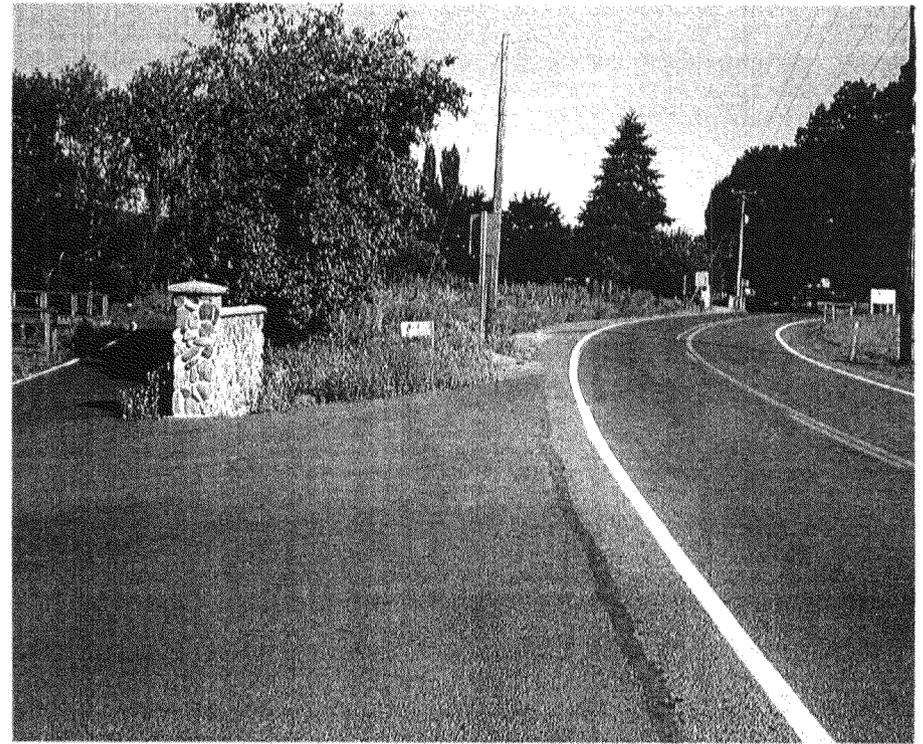
Marina on west bank of Mutnomah Channel north of Sauvie Island Bridge (within 1/2-mile of the site). Note lack of landscaping and relatively large gazebos at head of gangways.



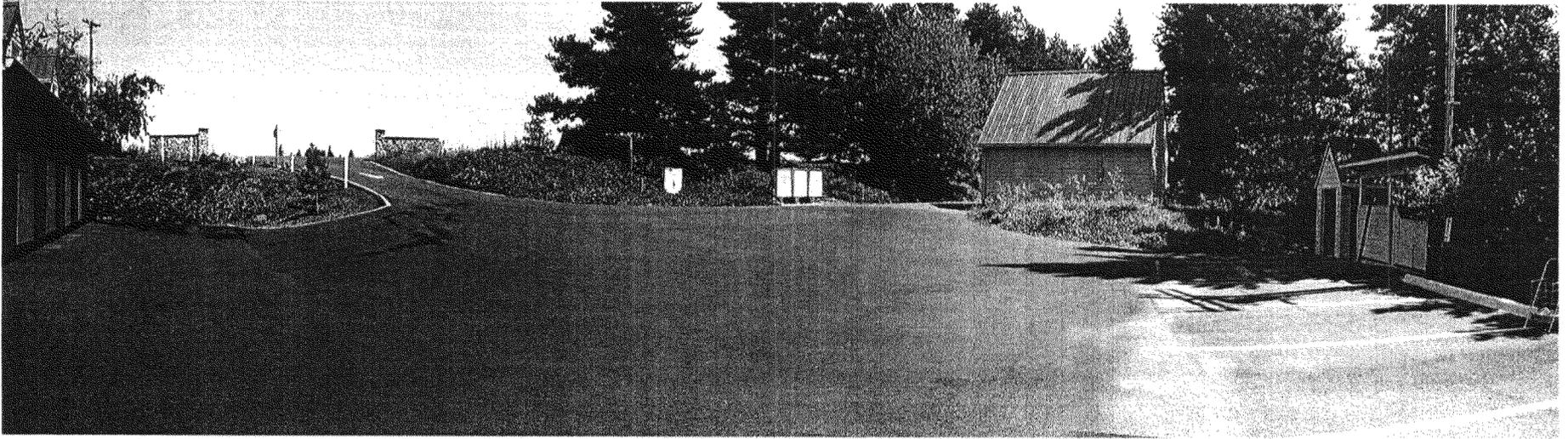
Same marina from Sauvie Island. Note gazebos are clearly visible even from this distance.



Entry Monuments (to be lowered) in foreground and driveway to the rear of storage buildings in the background.



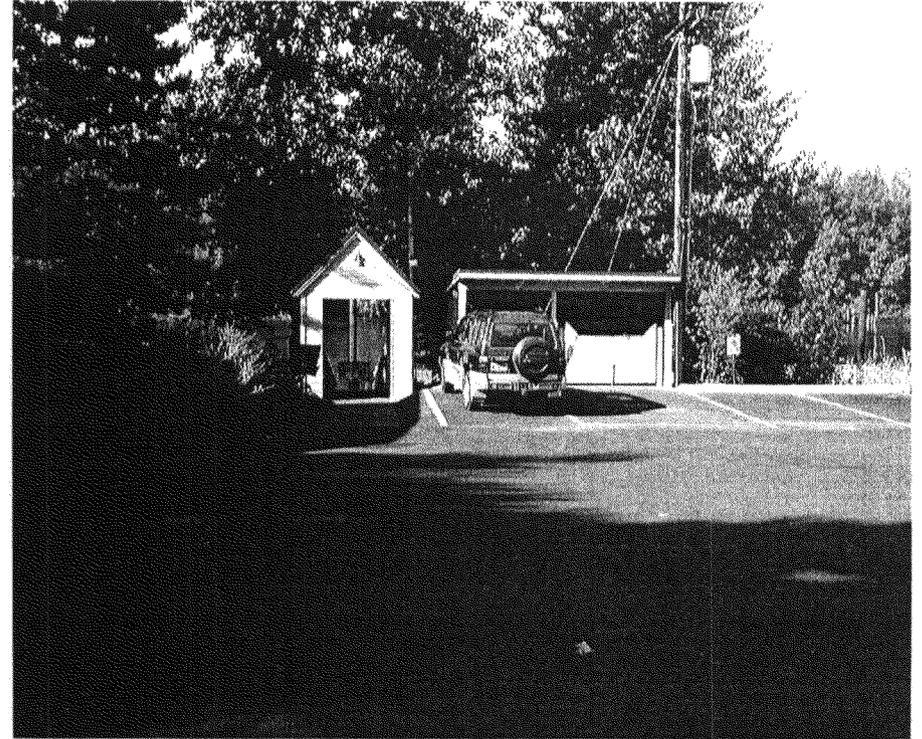
Sight distance north from entry.



Panorama of the entry area. Note the portal and trash/recyclables enclosure are obscured by surrounding vegetation.



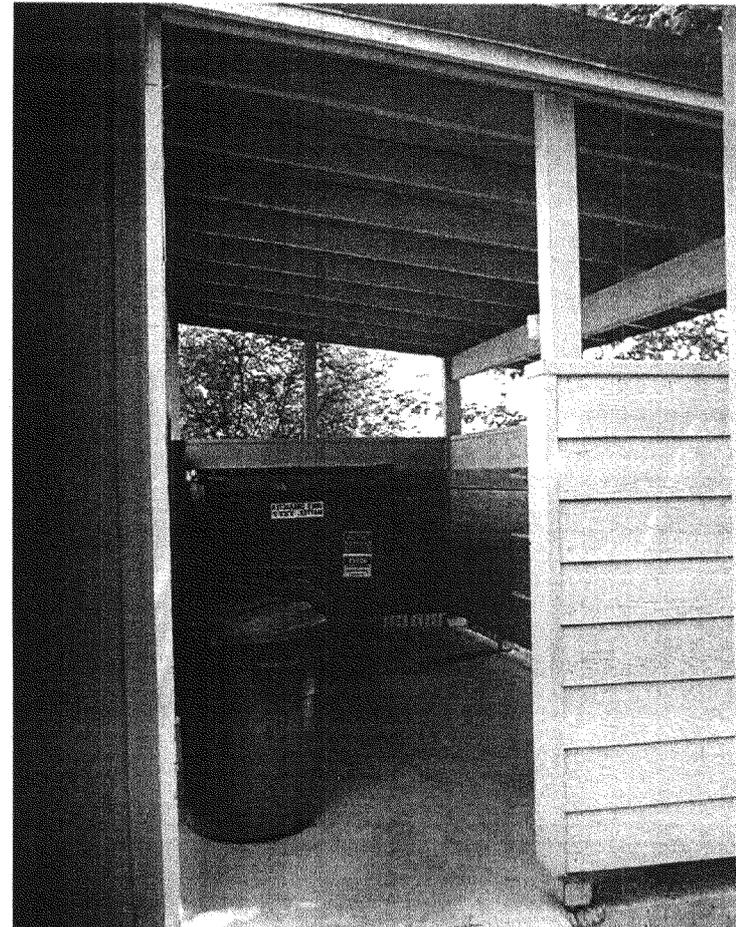
From intersection of driveways looking south; maintenance building on right; mail box cluster on left.



North portal and solid waste storage structure.



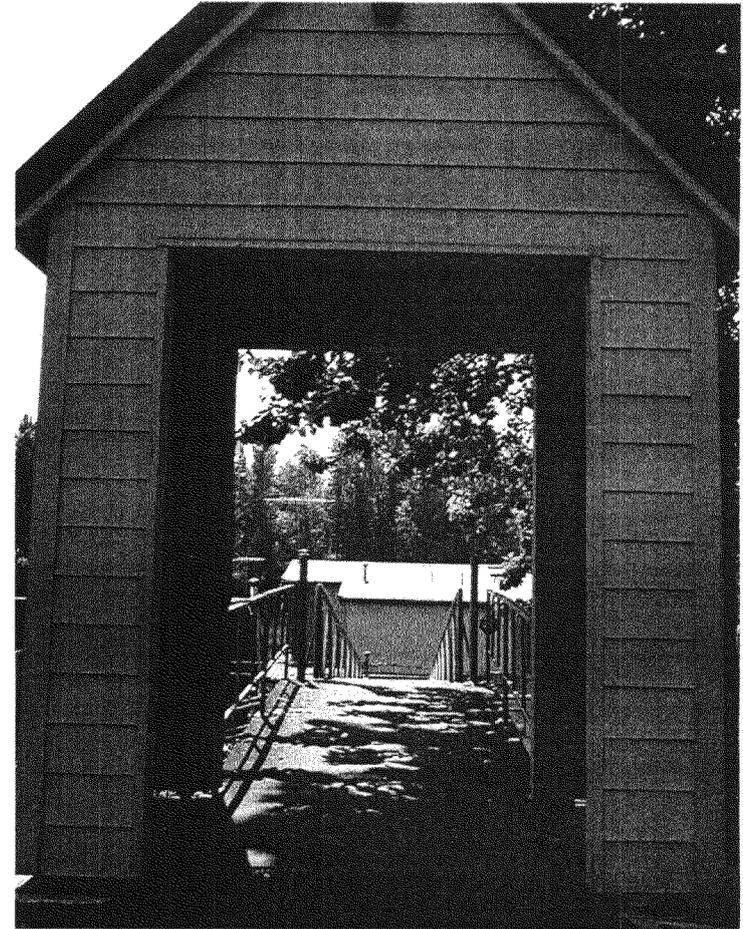
Looking up north gangway. Note the vegetation on the bank obscures the view of the trash/ recyclables enclosure from below.



The north trash/ recyclables enclosure (typ.)



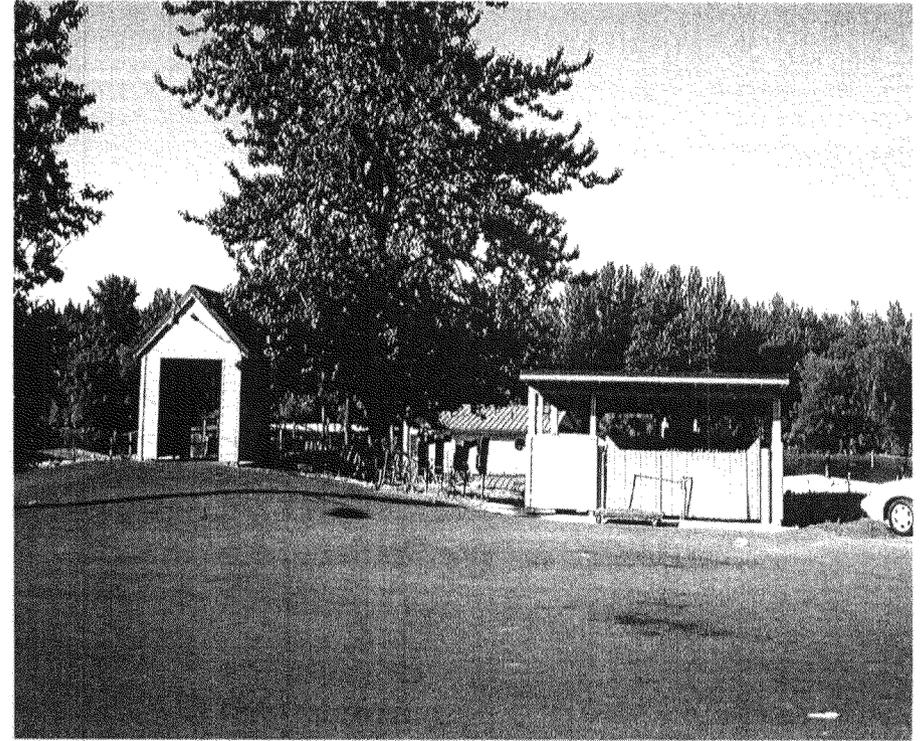
The south gangway with the portal and trash and recyclables enclosure in the background.



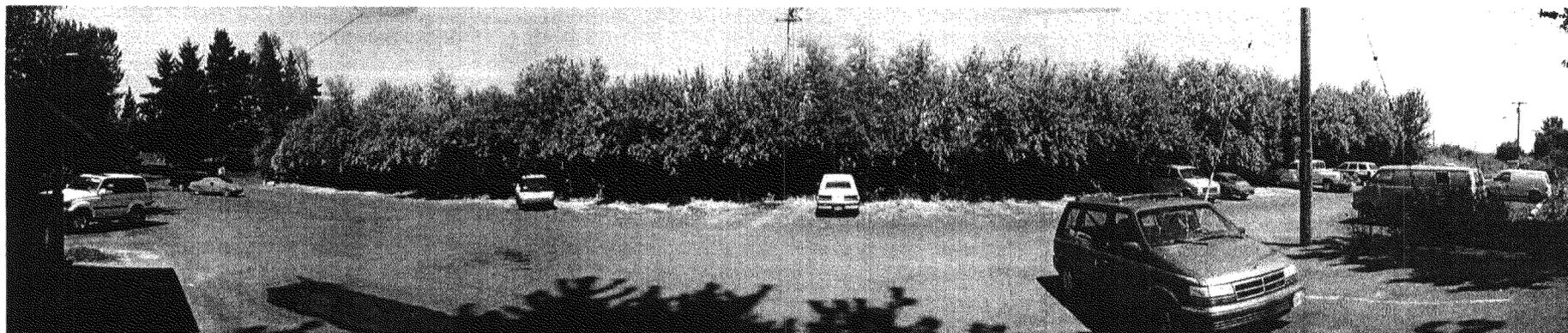
The view down the gangway from the south portal. Note that the floating home in the background obstructs the view of the gangway from the channel.



Terrace behind south trash/ recyclables enclosure is a suitable location for sight-obscuring vegetation.



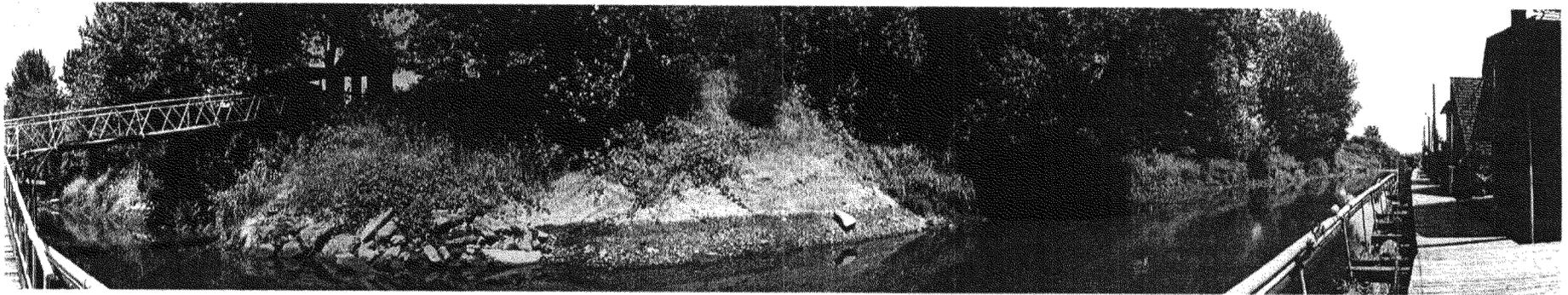
The south portal and trash/ recyclables enclosure viewed from the parking lot.



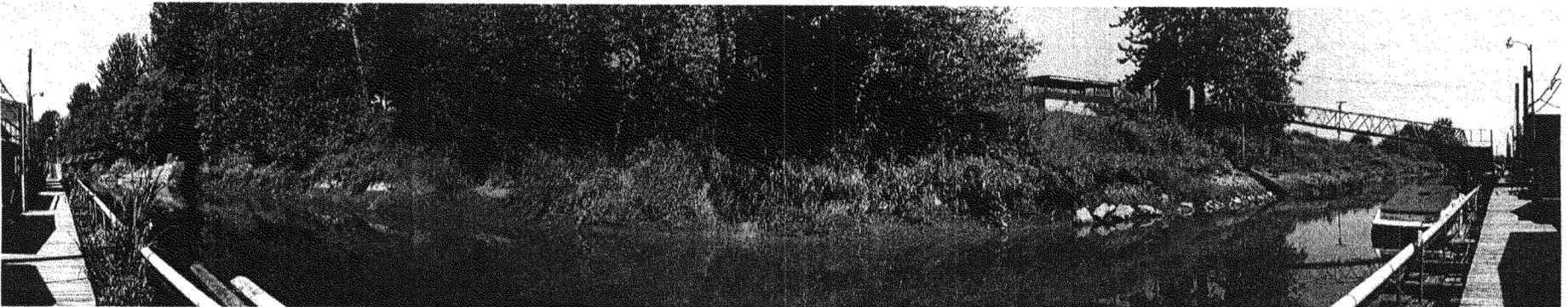
Panorama of the south parking lot looking northeast toward Sauvie Island Road. Note the vegetation between Sauvie Island Road and the parking lot obscures views of the site from the road and points beyond.



Panorama of north bank area.



Panorama of middle bank area.



Panorama of south bank area.

Note the remaining bankside vegetation in all 3 panoramas.

MEETING DATE: SEP 30 1999  
AGENDA NO: R-4  
ESTIMATED START TIME: 9:40

(Above Space for Board Clerk's use only)

**AGENDA PLACEMENT FORM**

SUBJECT: Request Approval of Transfer of Two Tax Foreclosed Properties to the United State of America c/o U S Dept of Agriculture Forest Service.

BOARD BRIEFING: Date Requested: \_\_\_\_\_  
Requested by: \_\_\_\_\_  
Amount of Time Needed: \_\_\_\_\_

REGULAR MEETING: Date Requested: September 30, 1999  
Amount of Time Needed: \_\_\_\_\_

DEPARTMENT: Environmental Services DIVISION: Assessment & Taxation

CONTACT: Gary Thomas TELEPHONE #: 248-3380 x22591  
BLDG/ROOM #: 166/300/Tax Title

PERSON(S) MAKING PRESENTATION: Representative from Requesting Agency

**ACTION REQUESTED:**

{ } INFORMATION ONLY    { } POLICY DIRECTION    {X} APPROVAL    { } OTHER

Multnomah County Ordinance 895, Section VI (F) requires that a hearing be held to hear public testimony prior to the Board of County Commissioners approving the transfer of Tax Foreclosed Properties to Government Agencies.

*10/6/99 ORIGINAL DEED & COPIES OF ALL TO TAX TITLE*

Attached documents: Staff Report, Board Order, & Deed attached.

CLERK OF COUNTY COMMISSIONERS  
MULTNOMAH COUNTY  
OREGON  
99 SEP 22 AM 8:40

**SIGNATURES REQUIRED:**

ELECTED OFFICIAL: \_\_\_\_\_  
OR  
DEPARTMENT MANAGER: *At Large E. K. Nicholas*

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES  
Any Questions: Call the Board Clerk @ 248-3277

**BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM BRIEFING – STAFF REPORT SUPPLEMENT**

**TO:** BOARD OF COUNTY COMMISSIONERS

**FROM:** Gary Thomas  
Foreclosed Property Coordinator – Tax Title

**TODAY'S DATE:** AUGUST 25, 1999

**REQUESTED PLACEMENT DATE:** SEPTEMBER 30, 1999

**Re:** Request approval from the Board of County Commissioners to transfer Two Tax Foreclosed Properties to the United State of America c/o U S Dept of Agriculture Forest Service for public use.

**I. Recommendation/Action Requested:**

That the Board of County Commissioners set September 30, 1999 as a date to received public testimony concerning the subject request for transfer of Tax Foreclosed Properties, for no monetary consideration, from Multnomah County's Tax Title Section, and decide whether the requested transfer to the United State of America c/o U S Dept of Agriculture Forest Service, shall be approved.

**II. Background Analysis:**

On February 5, 1999, in accordance with Ordinance 895, these properties were made available on a list of Tax Foreclosed Properties offered to Governmental Agencies for non-housing purposes.

The Government Agency, United State of America c/o U S Dept of Agriculture Forest Service, requested these properties outside of the sixty days required by Ordinance 895, (Section VI, C) of April 13, 1999. The formal request from the United State of America c/o U S Dept of Agriculture Forest Service was received on August 5, 1999. This was after the properties had been offered to AHDP, thence there were no requests from any other Government Agency or AHDP agency for this property.

**III. Financial Impact:**

The Tax Title Fund has incurred expenses associated with preparation of application materials, newspaper publication, processing transfer requests and preparation of Board documents. Future costs will include newspaper publications, and preparation of Board documents.

**IV. Legal Issues:**

No legal issue is expected to develop as a result of this action.

**V. Controversial Issues:**

No public controversy is expected as a result of setting this date for a public hearing.

**VI. Link to Current County Policies:**

There are no links with County policies.

**VII. Citizen Participation:**

Notice of this transfer hearing will be published in a newspaper for one day in two successive weeks.

The Oregonian, Metro Section

Dates of publication: September 22<sup>nd</sup> & September 29<sup>th</sup>

**VIII. Other Government Participation:**

All public agencies of Multnomah County were invited to participate in this Tax Foreclosed Property transfer process. All Neighborhood Associations within the County where the property was located were notified of the availability of Tax Foreclosed Properties to Government Agencies for possible transfer.

**STAFF REPORT  
MULTNOMAH COUNTY TAX TITLE  
PROPERTIES REQUESTED BY UNITED STATE OF AMERICA  
c/o U S DEPT OF AGRICULTURE FOREST SERVICE**

**FISCAL YEAR 1999-00  
August 25, 1999**

1. Legal Description: A tract of land in Section 14, Township 1 North, Range 5 East of the Willamette Meridian, Multnomah County, Oregon and described as follows:

Commencing at centerline station 53+92.1 E.C. (Road Angle 14), of the Columbia River Highway which bears N. 39°21'57" E., 2924.99 feet from the Southwest Corner of said Section 14; thence N. 33°58'20" E. 882.0 feet more or less, to a point on the centerline of said Highway; thence N. 56°01'40" W., a distance of 30 feet to a point on the Northerly right of way line of said Highway; said point also being the true point of beginning of the tract of land herein described: thence N. 56°01'40" W. 175.6 feet, more or less, to a point on the Southerly right-of-way line of the Oregon and Washington Railway and Navigation Company; thence Northeasterly along the Southerly right-of-way line of the Oregon and Washington Railway and Navigation Company, a distance of 437.6 feet, more or less; thence S. 56°01'40" E. a distance of 30 feet to a point on the Northerly right-of-way line said Highway; thence Southwesterly along the Northerly right-of-way line of said Highway, a distance of 411.0 feet, more of less, to the point of beginning.

Tax Account Number: R-94514-0090  
Deed Number: D001658  
Type of Use:  
Greenspace Code: ---P-, Park deficient area  
Taxes: \$388.62  
Expenses: \$748.48

2. Legal Description: A tract of land in Section 14, Township 1 North, Range 5 East, of the Willamette Meridian, in the County of Multnomah, State of Oregon, described as follows:

Commencing at centerline station 53+92 E.C. (Road angle 14), of the Columbia River, Highway, which bears N. 39°21'47" E., 2924.99 feet from the Southwest corner of said Section 14; thence N 33°58'20" E, 685.00 feet, more or less, to a point in the centerline of the Columbia River Highway, said point also being Easterly 20 feet from the centerline of Dalton Creek; thence N. 56°01'40" W. a distance of 30 feet to a point on the Northerly right of way line of the Columbia River Highway, said point also being the point of beginning of the tract to be described; thence N. 56°01'40" W. 247.2 feet, more or less, to a point on the Southerly right-of-way line of the Oregon and Washington Railway and Navigation Company; thence Northeasterly along the Southerly right-of-way line of Oregon and Washington Railway and Navigation Company a distance of 209.6 feet, more or less; thence S. 56°01'40" E. 175.6 feet, more or less, to a point on the Northerly right-of-way line of said Columbia River Highway; thence S. 33°58'20" W. along the Northerly right-of-way line of the Columbia River Highway a distance of 197.0 feet, more or less, to the point of beginning.

Tax Account Number: R-94514-0260  
Deed Number: D001659  
Type of Use:  
Greenspace Code: -----, No designation assigned  
Taxes: \$418.27  
Expenses: \$571.47



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 99-190

Approving Transfer of Two Tax Foreclosed Properties to the United State of America c/o U S Dept of Agriculture Forest Service, for Public Purposes

The Multnomah County Board of Commissioners Finds:

- a) ORS 271.330 and Multnomah County Ordinance 895 allow for transfer of Tax Foreclosed Real Property to governmental bodies provided the property is used for a public purpose.
- b) The County Board of Commissioners received a report from the Department of Environmental Services Tax Title Division, regarding proposed transfers of Tax Foreclosed Property to the United State of America c/o U S Dept of Agriculture Forest Service.
- c) The United State of America c/o U S Dept of Agriculture Forest Service has formally requested the transfer of certain Tax Foreclosed Properties located in Multnomah County, more particularly described herein on exhibit "A".
- d) Pursuant to ORS 271.330(3) and Ordinance 895, Section VI, paragraph (E) the Board of County Commissioners has authorized the Tax Title Division, to publish notice of any proposed governmental transfers of tax foreclosed property in a timely manner, after the above referenced report has been made available to the County Board.
- e) Multnomah County, Tax Title Division has published for two successive weeks in a newspaper of general circulation notice of a pending hearing before the Board of County Commissioners to hear testimony regarding the transfer of the properties described herein as required under ORS 271.330(3) and Ordinance 895.
- f) After holding the public hearing on the requested transfers, the Board determined these Two properties are no longer needed by the County, and are eligible to be transferred to the United State of America c/o U S Dept of Agriculture Forest Service, for public purpose.

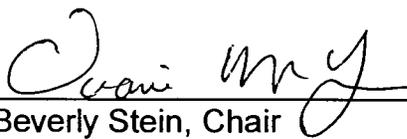
The Multnomah County Board of Commissioners Resolves:

1. The Two properties described herein are transferred without monetary consideration, to the United State of America c/o U S Dept of Agriculture Forest Service, provided that said properties shall be used and continue to be used by the United State of America c/o U S Dept of Agriculture Forest Service, for public purposes in the State of Oregon. Should the properties cease to be used for public purposes by the United State of America c/o U S Dept of Agriculture Forest Service, the interest of the United State of America c/o U S Dept of Agriculture Forest Service shall automatically terminate and title shall revert to Multnomah County.

2. The Chair of the Multnomah County Board of Commissioners is hereby directed to execute a deed conveying the properties described herein, to the United State of America c/o U S Dept of Agriculture Forest Service.

Adopted this 30<sup>th</sup> day of September, 1999.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

 9-30-99  
Beverly Stein, Chair



REVIEWED:

Thomas Sponsler, County Counsel  
For Multnomah County, Oregon

By   
Matthew O. Ryan, Assistant County Counsel

## EXHIBIT "A"

**D001658**

**R-94514-0090**

A tract of land in Section 14, Township 1 North, Range 5 East of the Willamette Meridian, Multnomah County, Oregon and described as follows:

Commencing at centerline station 53+92.1 E.C. (Road Angle 14), of the Columbia River Highway which bears N. 39°21'57" E., 2924.99 feet from the Southwest Corner of said Section 14; thence N. 33°58'20" E. 882.0 feet more or less, to a point on the centerline of said Highway; thence N. 56°01'40" W., a distance of 30 feet to a point on the Northerly right of way line of said Highway; said point also being the true point of beginning of the tract of land herein described: thence N. 56°01'40" W. 175.6 feet, more or less, to a point on the Southerly right-of-way line of the Oregon and Washington Railway and Navigation Company; thence Northeasterly along the Southerly right-of-way line of the Oregon and Washington Railway and Navigation Company, a distance of 437.6 feet, more or less; thence S. 56°01'40" E. a distance of 30 feet to a point on the Northerly right-of-way line said Highway; thence Southwesterly along the Northerly right-of-way line of said Highway, a distance of 411.0 feet, more or less, to the point of beginning.

**D001659**

**R-94514-0260**

A tract of land in Section 14, Township 1 North, Range 5 East, of the Willamette Meridian, in the County of Multnomah, State of Oregon, described as follows:

Commencing at centerline station 53+92 E.C. (Road angle 14), of the Columbia River, Highway, which bears N. 39°21'47" E., 2924.99 feet from the Southwest corner of said Section 14; thence N 33°58'20" E, 685.00 feet, more or less, to a point in the centerline of the Columbia River Highway, said point also being Easterly 20 feet from the centerline of Dalton Creek; thence N. 56°01'40" W. a distance of 30 feet to a point on the Northerly right of way line of the Columbia River Highway, said point also being the point of beginning of the tract to be described; thence N. 56°01'40" W. 247.2 feet, more or less, to a point on the Southerly right-of-way line of the Oregon and Washington Railway and Navigation Company; thence Northeasterly along the Southerly right-of-way line of Oregon and Washington Railway and Navigation Company a distance of 209.6 feet, more or less; thence S. 56°01'40" E. 175.6 feet, more or less, to a point on the Northerly right-of-way line of said Columbia River Highway; thence S. 33°58'20" W. along the Northerly right-of-way line of the Columbia River Highway a distance of 197.0 feet, more or less, to the point of beginning.

DEED

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to the UNITED STATE OF AMERICA c/o U S DEPT OF AGRICULTURE FOREST SERVICE, a municipal corporation of the State of Oregon, Grantee, the following Two separate real properties located within the County of Multnomah, and State of Oregon:

As described in attached exhibit "A".

Provided that said properties shall be used and continue to be used by the Grantee for public purposes, and should this property cease to be used for public purposes by the Grantee, the interests of the Grantee shall automatically terminate and title shall revert to the Grantor.

This transfer is without monetary consideration.

**THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTIES DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTIES SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.**

Until a change is requested, all tax statements shall be sent to the following address:

United State of America  
c/o U S Dept of Agriculture Forest Service  
902 Wasco Suite 200  
Hood River OR 97031

IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of Commissioners this 30 day of September 1999, by authority of an Order of the Board of County Commissioners heretofore entered of record.



BOARD OF COUNTY COMMISSIONERS  
MULTNOMAH COUNTY, OREGON  
*Beverly Stein* 9.30.99  
Beverly Stein, Chair

REVIEWED:  
Thomas Sponsler, County Counsel  
For Multnomah County, Oregon  
By *Matthew O. Ryan*  
Matthew O. Ryan, Assistant County Counsel

APPROVED:  
Kathy Tuneberg, Director  
Tax Collections/Records Management  
*K.A. Tuneberg*  
Kathleen A. Tuneberg

After recording, return to Tax Title/166/300

## EXHIBIT "A"

**D001658**  
**R-94514-0090**

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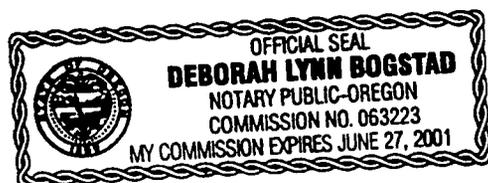
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**R-94514-0260**

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STATE OF OREGON                    )  
  ) SS  
COUNTY OF MULTNOMAH         )

The foregoing instrument was acknowledged before me this 30th day of September, 1999, by Diane M. Linn, to me personally known, as Vice-Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.



*Deborah Lynn Bogstad*

Notary Public for Oregon  
My Commission expires: 6/27/01

**BUDGET MODIFICATION Dist 2 - 01**

(For Clerk's Use) Meeting Date SEP 16 1999 R-8 SEP 30 1999 R-5  
 Agenda No. \_\_\_\_\_

**1. REQUEST FOR PLACEMENT ON THE AGENDA**

09/07/1999  
 DEPARTMENT Nondepartmental DIVISION Commissioner District 2  
 CONTACT Beckie Lee TELEPHONE 248-5219  
 \* NAME(S) OF PERSON MAKING PRESENTATION TO BOARD Commissioner Cruz

**SUGGESTED**

**AGENDA TITLE** Student Bus Pass Pilot Program. Approval requested for \$77,000 of general fund contingency in the 1999-2000 Budget to improve student attendance through providing free transportation. This match of \$75,000 from Portland Public Schools and Tri-Met will provide bus passes to certain qualified high school students.

(Estimated Time Needed on the Agenda)

**2. DESCRIPTION OF MODIFICATION (Explain the changes this Bud Mod makes. What budget does it increase? What do changes accomplish? Where does the money come from? What budget is reduced? Attach additional information if you need more space.)**

Personnel changes are shown in detail on the attached sheet

Provides \$77,000 from General Fund Contingency for bus passes, program coordination, and evaluation in FY 2000.

BOARD OF COUNTY COMMISSIONERS  
 MULTNOMAH COUNTY  
 OREGON  
 99 SEP - 8 AM 11:48

**3. REVENUE IMPACT**

Decreases General Fund Contingency by \$77,000.

**4. CONTINGENCY (to be completed by Budget & Quality)**

General Fund Contingency before this modification 9/8/99 3,434,570  
 Date  
 After this modification 3,357,570

Originated By <u>Beckie Lee</u> <i>Beckie Lee</i> Date <u>09/01/1999</u>	Department Director <u>Commissioner Cruz</u> <i>Serena Cruz</i> Date <u>9/9/99</u> 09/01/1999
Plan/Budget Analyst <u>Julie Neburka</u> <i>Julie Neburka</i> Date <u>09/01/1999</u>	Employee Services Date _____
Board Approval _____ Date _____	







COMMISSIONER SERENA CRUZ, DISTRICT 2  
**MULTNOMAH COUNTY OREGON**

1120 SW Fifth Avenue, Suite 1500  
Portland, Oregon 97204-1914  
(503) 248-5219 phone  
(503) 248-5440 fax  
e-mail: district2@co.multnomah.or.us  
www.co.multnomah.or.us/cc/ds2/

## SUPPLEMENTAL STAFF REPORT

TO: Board of County Commissioners  
FROM: Commissioner Serena Cruz  
DATE: 9/8/99  
RE: Bus Pass Pilot Project

1. Recommendation/Action Requested:  
Approve \$77,000 for a collaborative project between Portland Public Schools, Tri-Met and Multnomah County to increase school attendance by providing free transportation to low-income students.
2. Background/Analysis:  
In 1992, Portland Public Schools was granted a waiver from the State of Oregon requirement to provide transportation for high school students, shifting the burden of transportation to the students and their families. For a lot of students, especially those from low-income families, this cost inhibits their ability to get to school. In a study done by Sisters in Action for Power, 37% of students said the cost to ride transit was a problem in getting to school.

Tri-Met, Portland Public Schools, City of Portland and Multnomah County have been working together on a pilot project to alleviate this burden on students by providing free bus passes. The pilot, if approved, would pool \$77,000 from Multnomah County, \$75,000 from Portland Public Schools and \$75,000 from Tri-Met. Students who qualify for free lunch and live more than 1.5 miles from their neighborhood school would



receive a monthly bus pass, provided that they meet monthly attendance criteria.

County funds will be broken up into the following categories:

- \$50,000 to Portland Public Schools General Fund to purchase bus passes.
- \$25,000 will be contracted out to an organization to handle the outreach, planning and coordination of the pilot.
- \$2,000 to be used for an evaluation of the program.

3. Financial Impact:

The \$77,000 requested was designated in the General Fund contingency for this purpose, pending a specific proposal. The resolution asks that that money be formally dedicated to this pilot project. The amount requested is \$23,000 less than originally set aside in contingency.

4. Legal Issues:

There are no apparent legal issues regarding this request.

5. Controversial Issues:

Receivables for the \$25,000 contract, as well as the appropriate department to oversee the contract, are still being refined.

6. Link to Current County Policies:

This pilot project helps to meet the current benchmark of increasing school success. This pilot identifies transportation as a major obstacle in attendance. The project extends the work of the Student Attendance Initiative by giving students another tool they can use to be successful.

7. Citizen Participation:

This project was brought to Multnomah County, Tri-Met, the City of Portland and Portland Public Schools by a multi-generational, multi-racial group called SPIRIT (now Sisters in Action for Power). Their membership organization spent two years working with and interviewing students, parents and teachers about transportation. This is truly a grassroots project.

Sisters in Action for Power, if chosen as the contracting agent, will continue to be involved and involve their membership as the coordinators of this project and research other funding mechanisms to expand the scope of this pilot. This includes expanding the project to include students outside of the Portland Public School District and outside of high school.

1. Other Government Participation:  
Multnomah County will work in coordination with Portland Public Schools and Tri-Met on this project.



# MULTNOMAH COUNTY, OREGON

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN  
DIANE LINN  
SERENA CRUZ  
LISA NAITO  
SHARRON KELLEY

BUDGET & QUALITY  
PORTLAND BUILDING  
1120 S.W. FIFTH - ROOM 1400  
P. O. BOX 14700  
PORTLAND, OR 97214  
PHONE (503) 248-3883

TO: Board of County Commissioners  
FROM: Julie Neburka, Budget Analyst <sup>JN</sup>  
DATE: September 8, 1999  
RE: Portland Public Schools Bus Pass Pilot Program contingency draw

---

Commissioner District 2 is heading up a pilot program proposed by Sisters in Action for Power (formerly known as SPIRIT) that would provide free bus passes to certain qualified low-income high school students within the Portland Public Schools district. This pilot program will be a collaborative effort between Multnomah County, Portland Public Schools, and Tri-Met, all of whom are pledging to help fund the program in FY 2000. This program was discussed late in the FY 2000 budget process, and \$100,000 was set aside in the General Fund contingency to pay for the County's share of the pilot.

District 2 is requesting \$77,000 from contingency to pay for Multnomah County's share of the pilot. \$50,000 will be passed through to PPS to purchase bus passes, \$25,000 will pay for a contractor to oversee the pilot program, and \$2,000 will be budgeted in the Department of Support Services' Evaluation Research Unit for evaluation assistance. It is understood that this expenditure will be a one-time-only contribution to this program.

The Budget Office recommends approval of this bud mod. The program was discussed during the annual budget process, and funds to pay for it were set aside in contingency. As of September 8, 1999, the General Fund contingency was \$3,434,570. This bud mod will reduce that amount to \$3,357,570.

BUDGET MODIFICATION NO.

Dist 2 - 02

(For Clerk's Use) Meeting Date \_\_\_\_\_  
Agenda No. \_\_\_\_\_

SEP 30 1999  
~~SEP 16 1999~~ R-6  
RA

1. REQUEST FOR PLACEMENT ON THE AGENDA FOR

9/8/1999

DEPARTMENT Nondepartmental  
CONTACT Beckie Lee  
\* NAME(S) OF PERSON MAKING PRESENTATION TO BOARD

DIVISION Commissioner District 2  
TELEPHONE 248-5219  
Commissioner Cruz

SUGGESTED  
AGENDA TITLE

Budget Modification to loan Portland Public Schools \$75,000 for their participation in the Bus Pass Pilot Program.

(Estimated Time Needed on the Agenda)

2. DESCRIPTION OF MODIFICATION (Explain the changes this Bud Mod makes. What budget does it increase? What do changes accomplish? Where does the money come from? What budget is reduced? Attach additional information if you need more space.)

Personnel changes are shown in detail on the attached sheet

Provides \$75,000 from General Fund Contingency for a one-time "bridge" loan to Portland Public Schools for their participation in the Student Bus Pass Program. This loan is contingent on a written commitment from PPS to repay it in FY 2000-2001.

3. REVENUE IMPACT

Decreases General Fund Contingency by \$75,000.

99 SEP 8 AM 11:48  
MULTIPLA COUNTY  
OREGON  
COUNTY COMMISSIONERS

4. CONTINGENCY STATUS (to be completed by Budget & Quality)

Fund Contingency before this modification \_\_\_\_\_

Date

After this modification \_\_\_\_\_

Originated By <b>Beckie Lee</b> <i>Beckie Lee</i>	Date <b>9/8/99</b>	Department Director <b>Commissioner Cruz</b> <i>Serena Cruz</i>	Date <b>9/8/99</b>
Plan/Budget Analyst <b>Julie Neburka</b> <i>JNeburka</i>	Date <b>9/8/99</b>	Employee Services	Date
Board Approval	Date		





COMMISSIONER SERENA CRUZ, DISTRICT 2  
**MULTNOMAH COUNTY OREGON**

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## SUPPLEMENTAL STAFF REPORT

TO: Board of County Commissioners

FROM: Commissioner Serena Cruz

DATE: 9/8/99

RE: A budget modification to offer a bridge loan to Portland Public Schools for the bus pass pilot project.

1. Recommendation/Action Requested:  
Request the Board of County Commissioners to approve the attached budget modification to loan \$75,000 from General Fund contingency to Portland Public Schools.
2. Background/Analysis:  
Portland Public Schools, working in cooperation with Multnomah County and Tri-Met, has agreed to dedicate \$75,000 to purchase bus passes for low-income students identified through the bus pass pilot project. This loan will provide them with the cash flow they need to make this contribution until they are reimbursed by the State of Oregon. This loan will be repaid by Portland Public Schools in Fiscal Year 2000-2001.
3. Financial Impact:  
The loan of \$75,000 will be passed through to Portland Public Schools in FY '99-'00 and be paid back the following fiscal year. This budget modification will decrease General Fund contingency by \$75,000.
4. Legal Issues:  
There are no apparent legal issues regarding this request.



5. Controversial Issues:  
Portland Public Schools is still learning if this program will affect the waiver that they currently have in providing transportation to high school students. If it does jeopardize the waiver, they will not seek reimbursement from the State of Oregon and may not have the resources to pay off this debt. Firm commitment to pay back the loan must be made before the loan is offered. If Portland Public Schools is not able to make that commitment, Multnomah County will not extend the loan.

6. Link to Current County Policies:  
This loan will make it possible for Portland Public Schools to be a partner in the bus pass pilot program. This pilot program, by providing students with free transportation to school, is another tool Multnomah County can use to increase student success. The program continues with the work that the Student Attendance Initiative is doing to keep kids in school.

7. Citizen Participation:  
The bus pass pilot project was brought to Multnomah County, Tri-Met, the City of Portland and Portland Public Schools by a multi-generational, multi-racial group called SPIRIT (now Sisters in Action for Power). Their membership organization spent two years working with and interviewing students, parents and teachers about transportation. This is truly a grassroots project.

Additionally, the notice of public hearing on this budget modification is being given following county procedures. The public hearing allows for public testimony.

8. Other Government Participation:  
As stated above, this loan will allow Portland Public Schools the ability to be an integral partner in the bus pass pilot program, along with Multnomah County and Tri-Met.



# MULTNOMAH COUNTY, OREGON

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN  
DIANE LINN  
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SHARRON KELLEY

BUDGET & QUALITY  
PORTLAND BUILDING  
1120 SW FIFTH - ROOM 1400  
P. O. BOX 14700  
PORTLAND, OR 97214  
PHONE (503) 248-3883

TO: Board of County Commissioners

FROM: Julie Neburka, Budget Analyst *JN*

DATE: September 8, 1999

RE: Portland Public Schools Bus Pass Pilot Program contingency draw

---

Commissioner District 2 is heading up a pilot program proposed by Sisters in Action for Power (formerly known as SPIRIT) that would provide free bus passes to certain qualified low-income high school students within the Portland Public Schools district. This pilot program will be a collaborative effort between Multnomah County, Portland Public Schools, and Tri-Met, all of whom are pledging to help fund the program in FY 2000. As the pilot is currently envisioned, Portland Public Schools will purchase the student bus passes, and a contractor (as yet to be selected by the County) would oversee and administer the program.

This bud mod requests \$75,000 from the General Fund contingency to provide a loan to the Portland Public Schools for their share of the FY 2000 pilot bus pass program. The reason to provide this loan is that PPS receives reimbursement from the state for the money it pays out for student transportation to school—but it receives this reimbursement one year later, based on actual expenditures the previous year. Therefore, PPS could be expected to repay this loan in FY 2001 with funds it receives from the state.

Portland Public Schools is one of two school districts in the state that are waived from providing transportation to school for all students. The reason for this is that Tri-Met is available and provides comprehensive bus service throughout the school district. It is possible that the student bus pass program would jeopardize PPS' transportation waiver, and if that is the case, PPS would not ask to be reimbursed for bus passes provided through this program. Such a circumstance could make it more difficult for the school district to repay the loan. The Budget Office recommends that this loan not be extended without a firm commitment from PPS that it be repaid.

Otherwise, the Budget Office recommends approval of this bud mod. As of September 8, 1999, the General Fund contingency was \$3,434,570. This bud mod would reduce that amount to \$3,359,570.

MEETING DATE: SEP 30 1999  
AGENDA NO: B-1  
ESTIMATED START TIME: 10:00

(Above Space for Board Clerk's Use ONLY)

### AGENDA PLACEMENT FORM

SUBJECT: Transitioning Offenders from Custody to the Community

Board Briefing: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: Yes DATE REQUESTED: 9/30/99  
AMOUNT OF TIME NEEDED: 1 hour

DEPARTMENT: Community Justice DIVISION: Juvenile & Adult  
CONTACT: Lore Joplin TELEPHONE #: 248-3438  
BLDG/ROOM#: 311

PERSON(S) MAKING PRESENTATION: Elyse Clawson, Kate Desmond, Joanne Fuller, Michael Haines, Carl Jaber, John Miller Sr.

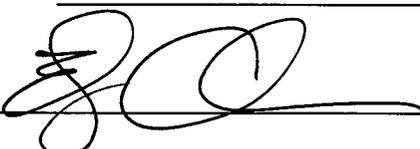
#### ACTION REQUESTED

INFORMATIONAL ONLY [ ] POLICY DIRECTION [ ] APPROVAL [ ] OTHER

#### SUGGESTED AGENDA TITLE

Briefing on Transitioning Offenders from Custody to the Community

#### SIGNATURES REQUIRED

ELECTED OFFICIAL: \_\_\_\_\_  
(OR)  
DEPARTMENT  
MANAGER: 

**ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES.**

Any questions? Please call the Board Clerk @ 248-3277

CLERK OF COUNTY COMMISSIONERS  
MULTI-COUNTY  
OREGON  
99 SEP - 9 PM 1:20



Multnomah County  
Department of Community Justice  
Presentation to the Board of County Commissioners  
September 30, 1999

# Transition of Offenders from Custody to the Community – *Gang Involved Offenders*



# Effective Transition of All Offenders

## What is happening in the institutions?

- ❖ Oregon State Correctional Institution (OSCI)  
Assistant Superintendents  
Jim Muranaka and Tony Santos

## What is the Department of Community Justice Doing Now?

**Mission for Transitioning All Offenders:**

*Using best practices, we will work to ensure community safety by providing support and resources to assist offenders in their successful reintegration into the community from jail, prison, or treatment.*

- Goals for Transitioning All Offenders:**
- ❖ Ensure community safety
  - ❖ Reduce recidivism
  - ❖ Ensure compliance with conditions of probation / parole, i.e., treatment, restitution, etc.
  - ❖ Assess needs and make appropriate referrals prior to release
  - ❖ Create a single case plan that follows the offender from the community to institution and back to the community
  - ❖ Ensure continuity with programs, education, work, training, and offenders supervision from institution to community
  - ❖ Provide relapse prevention (for addiction, criminality, sex offending, etc) in the community consistent with institutional programming
  - ❖ Stabilize housing, employment and health
  - ❖ Develop pro-social support
  - ❖ Provide adequate service in the community to meet the stabilization-related needs of offenders

# Transitioning Gang Involved Offenders

## ❖ Prior to the Release of Gang Offenders from Prison:

- The majority of gang offenders leaving institutions are young (18-24).
- An average of 10 gang involved inmates are released from prison each month.
- Department of Community Justice (DCJ) staff receive pre-release notification from the Department of Corrections (DOC) within 60 days of release.
- DCJ staff contact the inmate at the prison & discuss a release plan.
- Release plans include specialized requirements such as restrictions regarding associates, dress and weapons.
- Parole/Probation Officers (PPO's) conduct field visits prior to the inmate's release to—
  - verify the inmate's planned address,
  - approve the living situation,
  - discuss release plan with the other residents, and
  - identify potential risks to community safety.
- PPO's may add additional release conditions if necessary
- The PPO's may revisit the inmate at the prison to discuss any new release conditions.
- DCJ is working to continually improve the pre-release process.

---

## ❖ After the Release of Gang Offenders from Prison:

- PPO conducts a home visit in coordination with Portland Police within the first week of release.
- Gang offenders receive—
  - gang involvement assessments
  - enhanced field / home contacts
  - offenders more heavily involved in gangs receive more intensive supervision
- Computerized alert regarding an offender's gang involvement is provided to other community justice agencies

## Transitioning Gang Involved Offenders (continued)

### ❖ Gang Unit PPO's also participate in the following:

- 24-hour availability to the Portland Police (by pager)
- Weekly staffings to assess gang activities include Adult Community Justice, Juvenile Community Justice, Portland Police, and Oregon Youth Authority.
- Community justice presence at events, such as the Rose Festival Fun Center.
- Community Justice System *Lever Pulling Meetings*.
  - Informational meetings during which gang offenders meet with representatives from—
    - community justice agencies, such as the District Attorney's Office, Portland Police, and DCJ to discuss the consequences for gang involvement and behavior,
    - educational institutions regarding degree and GED completion, and
    - local employers in a job fair format.
  - The first set in a series of these meetings was held in NE Portland on September 21, 22 & 23.

## Effective Transition of All Offenders

### ❖ Plans for the Future:

- **In collaboration with the Department of Corrections (DOC)—**
  - Improve identification of gang-involved inmates.
  - Increase the number of inmates completing their GED's while in prison.
  - Increase DOC's pre-release notice to DCJ from 60 days to 120 days.
  - Designate a single DCJ *point of contact* for pre-release notification from DOC.
  - Ensure PPO access to institutions for pre-release visits with inmates.
  - Use video conferencing capabilities for pre-release offender contact.
  - Facilitate PPO / inmate contact by releasing inmates from Columbia River Correctional Institution or Salem-based institutions when possible
  - Complete inmate educational and alcohol and drug assessments when possible.

## Effective Transition of All Offenders (continued)

### ❖ Plans for the Future (continued):

- **Enhance collaboration with the Portland Police, focusing on problem solving**
- **Enhance collaboration with the City of Portland and local employers to provide employment opportunities to offenders (similar to the Boston plan)**
- **Develop the resources necessary to—**
  - **Provide centralized transitional services through the proposed Transitional Services Unit. The additional resources necessary to effectively operate this unit would include 1 FTE Senior Program Development Specialist, 1 FTE Corrections Counselor, and 1 FTE Office Assistant II.**
  - Provide increased Centralized Intake staffing to complete pre-release intakes on inmates. This staff would be dedicated to reviewing inmate prison records and meeting with inmates and DOC staff prior to inmate release.
  - Provide increased staffing for specialized PPO's to focus on transition of high risk offenders, i.e., sex offenders and gang involved offenders.
  - Provide increased staffing of the Day Reporting Center to allow for more effective management of offenders recently released from prison.
  - Provide staffing to complete educational and employment readiness assessments on all offenders upon release.
  - Provide for contracted employment assistance services for high risk, dangerous offenders.

## Kids N' Guns

Kids n' guns ain't no fun,  
Kids on my block got the whole community on the run.

With this shoot-em-up Bang! Bang!  
Hardcore gangsta slang; Sellin' cocaine.

Don't you know, killin' someone man, that ain't no game.  
And damn, you old cats, where y'all at?  
Supplyin' the hood with guns and crack.

These loves that I'm speakin' on is so obsolete.  
It's time for us as productive folks to take back the street.

Every other block kids seem to hang,  
dope dealin', chillin' and ready to gang bang.

Colors is the code to identify.  
What set is what, creatin' straight genocide.

There ain't no love for one another.  
Children of slaves over here killin' each other.

This is takin' place from state to state.  
We need to wake up before it's too late.

Fatherless homes. Kids growin' up alone.  
We can't blame these kids in the hood for packin' chrome.  
The entire community's on the run.  
It ain't no fun with these kids and all these guns.

Fatherless homes. Kids growin' up alone.  
We can't blame these kids in the hood for packin' chrome.  
The entire community's on the run.  
It ain't no fun with these kids and all these guns.

Power to the people! That theme is gone.  
'Cause in the hood, our kids ain't livin' too long.

With this shoot-em-up Bang! Bang!  
Hangin' on the block with this hard core gang slang.

Hey, killin' somebody ain't no game.  
Damn, you kids in the hood, you all need to change!

Politics. Now you all know, they don't give it up.  
They laugh every time when our black kids get bucked.

You all see this germ. You ain't no dummy.  
Hell, the funeral homes is makin' all the money!

Pop! Pop! Pop! Who's to blame?  
Front line news - kids, guns and gangs.

Fatherless homes. Kids growin' up alone.  
We can't blame these kids in the hood for packin' chrome.  
The entire community's on the run.  
It ain't no fun with these kids and all these guns.

Fatherless homes. Kids growin' up alone.  
We can't blame these kids in the hood for packin' chrome.  
The entire community's on the run.  
It ain't no fun with these kids and all these guns.

I ain't knockin' you for the money mission.  
But just take time out folks, to really listen.

I no longer live the life, because I know in my heart, man,  
about this game, killin' somebody ain't right.

So let's love one another. Respect each other.  
Remember, she's your sister and I'm your brother.

How far will this killin' go?  
Folks at home, man, watchin' the murder show.

This life is a terrible blow,  
but I know, man, this ain't the way the game's supposed to go.

Everybody should get some, but it ain't no fun,  
with all these kids on the block with all these guns.

Fatherless homes. Kids growin' up alone.  
We can't blame these kids in the hood for packin' chrome.  
The entire community's on the run.  
It ain't no fun with these kids and all these guns.

Fatherless homes. Kids growin' up alone.  
We can't blame these kids in the hood for packin' chrome.  
The entire community's on the run.  
It ain't no fun with these kids and all these guns.

Colors is the code to identify.  
Pragmatic created, man, it's straight up genocide.

Why you brothers want to kill one another?  
Children of slaves in America, over here killin' each other!

Fatherless homes. Kids growin' up alone.  
We can't blame these kids in the hood for packin' chrome.  
The entire community's on the run.  
It ain't no fun with these kids and all these guns.

Fatherless homes. Kids growin' up alone.  
We can't blame these kids in the hood for packin' chrome.  
The entire community's on the run.  
It ain't no fun with these kids and all these guns.

(End)



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Department of Community Justice  
Parole & Probation Division - African American Program

and

Clyde Lewis Jones



Multnomah County, Oregon  
Department of Community Justice  
Presentation to the Board of County Commissioners  
September 30, 1999

# Transition of Offenders from Custody to the Community – *Specialized Programs*



# Effective Transition of All Offenders

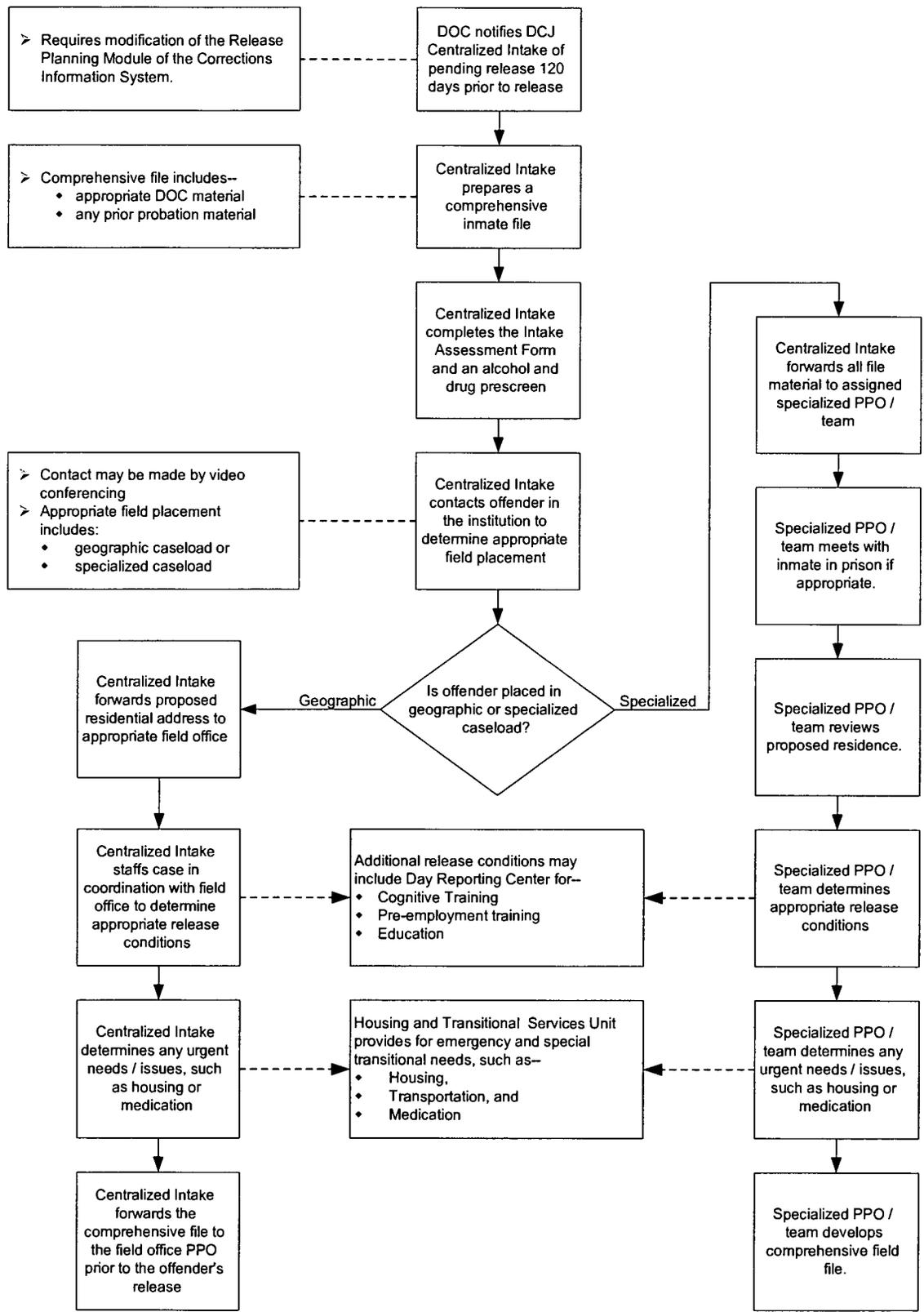
## Mission for Transitioning All Offenders:

*Using best practices, we will work to ensure community safety by providing support and resources to assist offenders in their successful reintegration into the community from jail, prison, or treatment.*

## Goals for Transitioning All Offenders:

- ❖ Ensure community safety
- ❖ Reduce recidivism
- ❖ Ensure compliance with conditions of probation / parole, i.e., treatment, restitution, etc.
- ❖ Assess needs and make appropriate referrals prior to release
- ❖ Create a single case plan that follows the offender from the community to institution and back to the community
- ❖ Ensure continuity with programs, education, work, training, and offenders supervision from institution to community
- ❖ Provide relapse prevention (for addiction, criminality, sex offending, etc) in the community consistent with institutional programming
- ❖ Stabilize housing, employment and health
- ❖ Develop pro-social support
- ❖ Provide adequate service in the community to meet the stabilization-related needs of offenders

## Proposed Centralized Intake Processing of Inmates Released from State Correctional Institutions



## Proposed Transitional Services Unit

- ❖ This proposed unit would allow for the more efficient, centralized provision of transitional services and housing. These services are currently not centrally coordinated.
- ❖ The Transitional Services Unit would—
  - Provide case management services for special needs clients in transition.
  - Facilitate placement of clients in emergency, transitional and permanent housing.
  - Develop and implement a vehicle to coordinate and communicate with other social service agencies (providers) to ensure a continuum of services and support during and after supervision.
  - Develop a strategic plan with the Bureau of Housing and community Development (using a local Community Development Corporation, i.e., Reach or Sabin) to increase housing availability for special populations.
- ❖ Additional resources necessary to effectively operate this unit would include 1 FTE Senior Program Development Specialist, 1 FTE Corrections Counselor, and 1 FTE Office Assistant II.
- ❖ The proposed Transitional Services Unit would incorporate the following units / services:
  - **Parole Transition Project (PTP)**
    - transitional housing placements for offenders via field referrals and intakes
    - acquisition of Oregon identification cards
    - Tri-Met bus tickets and emergency Greyhound tickets
    - items necessary for employment (on a limited basis)
    - clothing referrals
    - emergency food site information
    - general resource information
  - **Transitional Housing Services**
    - Assist offenders with emergency transitional needs, such as—
      - Special needs housing
      - Transportation
      - Employment related needs
      - Treatment and medical needs
      - Miscellaneous emergency needs

## Proposed Transitional Services Unit (continued)

### ➤ Transitional Housing Services (continued)

- Coordinate and develop contract and special needs housing for offenders released from local custody and state institutions
- Provide local and long distance transportation needs
- Provide updated information on offender resources to DCJ staff, jail and institution staff, and the community
- Participate in local, state, and national committees focusing on community resources
- Establish partnerships with existing community based programs serving offenders
- Provide direct service to DCJ staff for offender emergency needs, i.e., medical and dental

---

## Current DCJ Transitional Services

### Day Reporting Center (DRC), Londer Learning Center (LLC) and Women's Services

#### ❖ Day Reporting Center—

- is often used as a sanction following jail time, i.e., 15 days in jail followed by DRC.
- assists with stabilizing offenders in the community.
- provides assessments of offender needs and makes appropriate referrals to treatment, housing, mental health services, etc.
- provides stabilization to low functioning sex offenders transitioning from prison to the community.

#### ❖ Londer Learning Center—

- provides educational services to some offenders who are in or are transitioning out of alcohol and drug treatment
- provides stabilization to low functioning sex offenders transitioning from prison to the community.

## Current DCJ Transitional Services (continued)

### ❖ Women's Services—

- provides case management and prenatal care through the ADAPT program for female offenders transitioning back into the community.
- has three transitional houses that are used to provide structured living for female offenders and their children transitioning out of alcohol and drug treatment.

---

## Local Control Unit

### ❖ Provides release planning for all 1145 inmates (average of 160 release plans/month)

#### ❖ Release plans—

- provide the supervisory authority with an inmate's community plan prior to release on post prison supervision
- include—
  - proposed level of supervision,
  - recommended conditions of supervision,
  - any public safety concerns,
  - a restitution schedule where applicable,
  - a description of support services and programs, and
  - conditions necessary for the inmate's rehabilitation.
- must be initiated a minimum of 30 days prior to an inmate's release date.
- are developed using information gathered from—
  - court orders reviewed to identify conditions ordered by the court,
  - prior case files reviewed to determine level of supervision, risk to the community and program needs, and
  - the release planning form completed by all 1145 inmates shortly after sentencing to help identify the offender's correct address.
    - Local Control receives roughly 250 release planning forms per month.

#### ❖ Field investigation requests—

- Are sent to the appropriate field office
- Provide the ability to verify the inmate's proposed address
- Help to ensure the offender's living situation will facilitate a smooth transition to the community.
- Are processed via the release planning form (in coordination with the Multnomah County Sheriff's Office jail counselors).
- 90 field investigation requests were completed during July and August of this year.

## Current DCJ Transitional Services (continued)

### Sex Offender Unit

- ❖ Pre-release investigation request sent to field unit.
  - PPO investigates proposed residence
  - Proximity of residence to parks, schools, churches convenience stores, etc. is assessed
  - Sex Offender Specialist Team assignment
  - Initial office visit
- ❖ If offender is homeless, case is routed to Parole Transition Unit at Intake, Justice Center.
  - PPO assignment is made
  - Indigent Crisis PPO arranges housing
- ❖ For low functioning, dangerous sex offenders, a list of offenders 120 days from release is sent to our institution liaison, Ms. Tawnie Gray, North District office.
  - Liaison consults with sex offender, District Manager liaison for assignment
- ❖ PPO makes initial contact with low functioning, dangerous offender at institution to discuss the following items:
  - General/special conditions review, adding conditions as necessary
  - Housing
  - Medication Coordination
  - Record Retrieval
  - Treatment appointments scheduled
  - Initial polygraph scheduled
  - Address basic living needs, i.e., toiletries, transportation, clothing, and SSI/other sources of funding assessed.
- ❖ Plan developed, sex offender specialized risk assessment completed.
- ❖ Transportation from institution to community coordinated by PPO & institution staff
- ❖ Notification plan completed by PPO and approved by Supervisor.
- ❖ Meetings with State and Local MR/DD Agencies for case planning are arranged as early as possible.
- ❖ If predatory and/or high risk, level of notification determined via staffing meeting attended by Public Information Officer, Supervisor, sex offender Specialized PPO Team, District Manager, Liaison, Indigent Crisis PPO, any other agencies deemed appropriate, including Local Law Enforcement.
- ❖ Information sharing and heightened Law Enforcement surveillance arranged with Portland Police and/or other police agencies.
- ❖ Public Information Officer consults with County Chair, Director, Deputy Director, Chair of Neighborhood Association, Area City Crime Prevention Specialist, and District County Commissioner.
- ❖ Press Notification if necessary
- ❖ Person-to-Person Notification if deemed appropriate

## Current DCJ Transitional Services (continued)

### African American Program (AAP)

#### ❖ Goals

- Decrease criminal activity.
- Decrease parole violations.
- Decrease drug and alcohol abuse.
- Increase employment.
- Increase educational/job skill levels.
- Increase family involvement as a unit.
- Decrease truancy in children of AAP families.
- Stabilized & affordable housing.

#### ❖ Preparation for Release from Institution

- Screen applicants statewide, to gain commitment to program goals.
- Bring selected participants to Columbia River Correctional Institutions 4 months prior to release.
- Begin weekly curriculum with inmates in program, in prep for transition.
  - Dealing with *system* issues in a positive manner.
  - History of the African American culture.
  - Anger/hostility resolution.
  - Employment skills - job hunting, interviewing, expectations.
  - Stable family structures.
  - Helping children stay in school and avoid gangs.
  - Role reversal strategies for the husband and wife, after release.
  - Outside groups for significant others, preparing for the release.
  - Beginning to rejoin the family just prior to release.
- Dealing effectively with law enforcement systems.
- Recognizing thinking errors and criminal lifestyle patterns.
- Coursework also taught by PPO's that will later supervise offenders.

#### ❖ At Time of Release—

- AAP staff picks offender up at gate - no third party pickups.
- **Immediate** link with the PPO's first met in the institution program.
- **Immediate** setup with support group, housing, treatment and/or employment links.
- Intensified offender contact schedule with continuation of weekly groups.

## Current DCJ Transitional Services (continued)

### African American Program (continued)

- Continuation of the family re-integration process. Significant others involved in the plan for success.
  - Liaison with schools, on behalf of AAP families, where children are involved.
  - Increased reporting. Counseling-style home visits, frequently involving family.
  - Assistance with education, job skills training, employment.
  - Group encouraged to hold its own members accountable. Strong peer support and equally strong group disapproval of unacceptable behavior.
  - Group projects to give back to the community, such as yard clean-ups for the elderly, *Kids N' Guns* anti-violence message, presentations to school groups such as the *I Have A Dream Foundation*, McCoy Alternative School, etc.
  - *Oxford* style housing for group members in need of same, where offenders can support each other and share a common goal for success, with controls over negative influences in the household.
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