



Multnomah County Oregon

Board of Commissioners & Agenda

connecting citizens with information and services

BOARD OF COMMISSIONERS

Ted Wheeler, Chair

501 SE Hawthorne Boulevard, Suite 600
Portland, Or 97214

Phone: (503) 988-3308 FAX (503) 988-3093

Email: mult.chair@co.multnomah.or.us

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501 SE Hawthorne Boulevard, Suite 600
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REVISED

JULY 14 & 16, 2009

BOARD MEETINGS

FASTLOOK AGENDA ITEMS OF INTEREST

NEW! Public access to wireless internet free of charge weekdays from 6AM to 9PM while attending meetings in the Boardroom. Users must have a laptop or other wireless-enabled device with IEEE 802.11a, b or g; or a WiFi compatible network card.

Pg 2	12:00 p.m. Tuesday Board Retreat
Pg 3	9:30 a.m. Thursday Public Comment
Pg 3	9:30 a.m. Thursday Proclamation Declaring Probation, Parole and Community Supervision Week in Multnomah County, Oregon
Pg 3	9:45 a.m. Thursday Resolution Urging Immediate Passage of Comprehensive Federal Health Reform Legislation
Pg 3	10:05 a.m. Thursday Second Reading and Adoption of Amendments to BIT Ordinance

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:

(Portland & East County)

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

Sunday, 11:00 AM Channel 30

(East County Only)

Saturday, 10:00 AM, Channel 29

Tuesday, 8:15 PM, Channel 29

Produced through MetroEast Community Media

(503) 667-8848, ext. 332 for further info

or: <http://www.metroeast.org>

Tuesday, July 14, 2009 - 9:00 AM
Multnomah Building, Sixth Floor Commissioners Conference Room 635
501 SE Hawthorne Boulevard, Portland

IF NEEDED EXECUTIVE SESSION

- E-1 The Multnomah County Board of Commissioners will meet in Executive Session Pursuant to ORS 192.660(2)(d),(e) and/or (h). Only Representatives of the News Media and Designated Staff are allowed to attend. News Media and All Other Attendees are Specifically Directed Not to Disclose Information that is the Subject of the Session. No Final Decision will be made in the Session. Presented by County Attorney Agnes Sowle. 15-55 MINUTES REQUESTED.
-

Tuesday, July 14, 2009 - 12:00 PM
McMenamins Edgefield, Red Fox Room
2126 SW Halsey Street, Troutdale

BOARD RETREAT

The Multnomah County Board of Commissioners will meet to discuss the Board's goals and priorities for the next six months.

Thursday, July 16, 2009 - 9:30 AM
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

REGULAR MEETING

CONSENT CALENDAR - 9:30 AM **DEPARTMENT OF COUNTY HUMAN SERVICES**

- C-1 Approval of Five Intergovernmental Agreements to Continue the Multnomah County Community Development Block Grant Consortium for Program Years July 1, 2010 – June 30, 2013

SHERIFF'S OFFICE

- C-2 Intergovernmental Revenue Agreement 0910063 with METRO to Provide Inmate Work Crews for Illegal Dumpsite Cleanup

- C-3 Intergovernmental Revenue Agreement 0910064 with METRO to Provide General Investigative Police Services for Enforcement of METRO Ordinances

REGULAR AGENDA

PUBLIC COMMENT - 9:30 AM

Opportunity for Public Comment on non-agenda matters. Testimony is limited to three minutes per person. Fill out a speaker form available in the Boardroom and turn it into the Board Clerk.

DEPARTMENT OF COMMUNITY JUSTICE – 9:30 AM

- R-1 PROCLAMATION Declaring July 19th through July 25th, 2009 as Probation, Parole and Community Supervision Week in Multnomah County, Oregon

DEPARTMENT OF HEALTH – 9:45 AM

- R-2 RESOLUTION Urging Immediate Passage of Comprehensive Federal Health Reform Legislation

SHERIFF'S OFFICE – 9:55 AM

- R-3 NOTICE OF INTENT to Apply for Urban Area Security Funding in the Amount of \$219,076 for the Purchase of a Sheriff's Office Dive Team Vehicle

DEPARTMENT OF COUNTY MANAGEMENT – 10:05 AM

- R-4 Second Reading and Possible Adoption of a Proposed ORDINANCE Providing Housekeeping Amendments to Multnomah County Code Chapter 12, Business Income Tax

BOARD COMMENT

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



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MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

(revised 09/22/08)

Board Clerk Use Only

Meeting Date: 07/16/09
 Agenda Item #: C-1
 Est. Start Time: 9:30 AM
 Date Submitted: 07/01/09

Agenda Title: **Approval of Five Intergovernmental Agreements to Continue the Multnomah County Community Development Block Grant Consortium for Program Years July 1, 2010 – June 30, 2013**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.

Requested Meeting Date: July 16, 2009 **Amount of Time Needed:** N/A
Department: DCHS **Division:** Community Services
Contact(s): Carol Cade and Mary Li
Phone: 503-988-6295 **Ext.** 26598 **I/O Address:** 167/2
Presenter(s): Consent Agenda

General Information

1. What action are you requesting from the Board?

The Department of County Human Services requests that the Board of County Commissioners review and approve the attached intergovernmental agreements to extend the Multnomah County Community Development Block Grant (CDBG) Consortium for the program years beginning July 1, 2010 and ending June 30, 2013. Since 1984, the County and the cities of Fairview, Lake Oswego, Wood Village, Troutdale and Maywood Park have participated in the CDBG Consortium to receive federal CDBG grant funds directly from the US Department of Housing and Urban Development. Each participating local government must adopt the attached Intergovernmental Agreement and provide the fully executed agreements to the local HUD office by July 17, 2009 in order to continue receiving CDBG funds for the 2010-2012 program years.

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

The Community Development Act of 1974 and Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended, allows local governments to form consortia for the purpose of obtaining direct federal funding under the US Department of Housing and Urban Development's (HUD) Community Development Block Grant (CDBG) program. By applying jointly as a consortium, the population of the participating cities and unincorporated urban Multnomah County is sufficient to qualify our local consortium as an Urban County Entitlement area allowing these federal funds to come directly to Multnomah County. The CDBG program

makes monies available to local governments to benefit low and moderate income households through the provision of social services, public works projects and promoting housing opportunity.

The cities of Fairview, Troutdale, Wood Village, Maywood Park, a part of Lake Oswego and Multnomah County have participated in a Consortium since 1984 to receive funds under the CDBG program to support local community services and affordable housing activities. The participating members each provide a participant in the Policy Advisory Board that makes funding recommendations to the Board of County Commissioners regarding the use of CDBG funds. As the lead agency in the CDBG Consortium, the County has also participated in preparing the five-year Consolidated Plan that guides utilization of HOME and CDBG funds. The current Consolidated Plan is effective for fiscal years 2005-2010. During each year the Consolidated Plan's policy and planning priorities are effective; one-year Action Plans are submitted for implementing actual housing activities and services.

The amount of CDBG funding awarded to the Multnomah County Consortium each year is determined by HUD according to a formula counting the eligible low and moderate income populations within the jurisdictional boundaries of the Consortium. The CDBG Consortium is renewed on a three-year cycle with specific steps dictated by HUD. Each of the small cities within the CDBG Consortium has been given the opportunity to opt out of the Consortium. Each city has expressed a desire to continue participating in the Consortium. The CDBG Consortium has established an effective track record of meeting local concerns and fairly disbursing the available funds. In the present program year the County CDBG grant resources are approximately \$311,870.

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

None is anticipated.

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

The five-year Consolidated Plan and yearly Action Plans have been exhaustively reviewed in public meetings before the joint Housing and Community Development Commission. The Consolidated Plan was also adopted in a public meeting before the Board of Commissioners. The annual award of CDBG funds controlled by the County is made in public meetings and before the Board of Commissioners. The participating members of the CDBG Consortium approve the intergovernmental agreements in public meetings before their respective city councils.

Required Signature

Elected Official
or Department/
Agency Director:



Date: 06/30/09

INTERGOVERNMENTAL AGREEMENT

between

MULTNOMAH COUNTY and CITY OF _____

for the

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM and
HOME INVESTMENT PARTNERSHIP PROGRAM

PROGRAM YEARS 2010 - 2012

This Agreement is entered into between Multnomah County (COUNTY), a political subdivision of the State of Oregon, and the City of _____ (CITY), a municipal corporation of the State of Oregon within Multnomah County, for the cooperation of units of local government under the authority of ORS 190.010. It will become effective upon adoption by the parties and will continue until terminated as provided herein.

The circumstances surrounding the making of this Agreement are as follows:

- A. WHEREAS, the Congress of the United States has enacted the National Affordable Housing Act of 1990 and the Housing and Community Development Act of 1974 with amendments made by the Housing and Urban-Rural Recovery Act of 1983, and the Housing and Community Development Act of 1987, and the Department of Housing and Urban Development has adopted regulations pursuant thereto (hereinafter jointly referred to as the "Act"); and
- B. WHEREAS, the Congress has found and declared that the Nation's cities, towns and small urban communities face critical social, economic and environmental problems; and
- C. WHEREAS, the Congress has further found and declared that the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable urban communities as social, economic and political entities; and
- D. WHEREAS, the primary objective of the Act is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities principally for persons of low and moderate income.
- E. WHEREAS, consistent with this primary objective, the Federal assistance provided in this Act is for the support of community development activities which are directed toward the following specific objectives:

- (1) The elimination of slums, blight and the prevention of blighting influences and the deterioration of property and neighborhood and community facilities of importance to the welfare of the community, principally persons of low and moderate income; and
- (2) The elimination of conditions which are detrimental to health, safety, and public welfare, through code enforcement, demolition, interim rehabilitation assistance, and related activities; and
- (3) The conservation and expansion of the Nation's housing stock in order to provide a decent home and a suitable living environment for all persons, but principally those of low and moderate income; and
- (4) The expansion and improvement of the quantity and quality of community services, principally for persons of low and moderate income, which are essential for sound community development of viable urban communities;
- (5) A more rational utilization of land and other natural resources and the better arrangement of residential, commercial, industrial, recreational, and other needed activity centers; and
- (6) The reduction of the isolation of income groups within communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial de-concentration of housing opportunities for persons of lower income and the revitalization of deteriorating or deteriorated neighborhoods to attract persons of higher income; and
- (7) The restoration and preservation of properties of special value for historic, architectural, or aesthetic reasons; and
- (8) The alleviation of physical and economic distress through the stimulation of private investment and community revitalization in areas with population out-migration or a stagnating or declining tax base; and
- (9) The conservation of the Nation's scarce energy resources, improvement of energy efficiency, and the provision of alternative and renewable energy sources.

F. WHEREAS, it is found that certain of these objectives are pertinent to the concerns and needs of the COUNTY and its communities; and

- G. WHEREAS, on February 6, 1984 the COUNTY and the CITY entered into an intergovernmental agreement wherein they agreed to join together with other units of general local government to qualify the COUNTY as an urban county for federal Housing and Community Development block grant funds; and
- H. WHEREAS, on November 17, 1986, October 12, 1989, October 31, 1991, July 14, 1994, August 7, 1997, July 28, 2000, August 1, 2003, and August 7, 2006 the COUNTY and the CITY renewed the intergovernmental agreement to continue the County's urban county qualification; and
- I. WHEREAS, this agreement was scheduled to terminate on June 30, 2010; and
- J. WHEREAS, continued eligibility for block grant funds as an urban county depends on continuation of such intergovernmental agreements; and
- K. WHEREAS, the Department of Housing and Urban Development has specified the minimum provisions, which must be included within any intergovernmental agreement, into which local governments enter to qualify for urban county eligibility;

NOW, THEREFORE, providing that Multnomah County can continue to meet necessary criteria for participation in the Community Development Block Grant Program and the HOME Investment Partnership Program as an urban county, and in consideration of the mutual promises made herein and the mutual benefits received hereunder, the parties agree as follows:

- (1) The CITY and the COUNTY agree to cooperate in undertaking, or assist in undertaking, community renewal and lower income housing activities, specifically urban renewal and publicly assisted housing.
- (2) The CITY authorizes the inclusion of its population for purposes of the Act; and joins together with other units of general local government to qualify the COUNTY as an urban county for Housing and Community Development Act block grant funds.
- (3) The CITY may not apply for grants under the Small Cities or State CDBG Programs from appropriations for fiscal years during the period in which it is participating in the urban county's CDBG program; and
- (4) The CITY may not participate in a HOME consortium except through the urban county, regardless of whether the urban county receives a HOME formula allocation.

- (5) The COUNTY, as the applicant, assumes full responsibility, including final decision-making, and also assumes all obligations of an applicant as specified in the Act and the regulations thereunder.
- (6) For the purposes of updating the Community Development and Housing Plan and Annual Community Development Program for an additional three years as required by Title I of the Act, a Policy Advisory Board is hereby retained which shall advise the COUNTY on program policies and project selection.

Said Policy Advisory Board shall be composed of one representative or a designated alternate from each unit of general government executing these intergovernmental agreements. Each such representative shall have one vote on said board. Each such representative shall be a public official or employee of said unit of government.

- (7) The COUNTY and CITY agree to take all required actions to comply with the provisions of Section 109 and Section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended; Title I of the National Affordable Housing Act of 1990; the National Environmental Policy Act of 1969; Title VI of the Civil Rights Act of 1964; Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988; Executive Order 11988, Section 3 of the Housing and Urban Development Act of 1968; and other applicable civil rights laws.
- (8) The COUNTY shall not fund any activities in the CITY or in support of the CITY that does not affirmatively further fair housing within its own jurisdiction or that impedes the COUNTY'S actions to comply with its fair housing certification.
- (9) The CITY supports the COUNTY'S adoption and enforcement of a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations.
- (10) The CITY supports the COUNTY'S adoption and enforcement of a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.
- (11) Pursuant to 24 CFR 570.501(b), the CITY is subject to the same requirements applicable to subrecipients, including the requirement of a written agreement set forth in 24 CFR 570.503.

(12) The COUNTY and CITY will cooperatively undertake the necessary actions, as determined by the COUNTY, to carry out a community development program and approved Consolidated Plan, and/or meet other requirements of the CDBG and HOME programs and other applicable laws.

(13) This agreement shall remain in full force and effect from the date of execution for the program years commencing on July 1, 2010 through June 30, 2013 inclusive, and any additional time as may be required for the expenditure of related block grant funds or income generated from such funds, provided that the COUNTY qualifies as an urban county under, and block grant funding is allocated to the COUNTY pursuant to, the Act. The COUNTY and the CITY may not terminate or withdraw from this Agreement while the Agreement remains in effect.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement this _____ day of _____, 2009.

MULTNOMAH COUNTY, OREGON

CITY OF _____

By: _____
Ted Wheeler, Chair
Board of County Commissioners

By: _____
_____, Mayor
City of _____

I hereby find that the terms and provisions of this Intergovernmental Agreement are fully authorized under State and local law and that the Agreement provides full legal authority for the County to undertake or assist in undertaking essential community development and housing assistance activities, specifically urban renewal and publicly assisted housing.

REVIEWED:

Patrick Henry, County Attorney



MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST (revised 09/22/08)

Board Clerk Use Only

Meeting Date: 07/16/09
 Agenda Item #: C-2
 Est. Start Time: 9:30 AM
 Date Submitted: 07/08/09

Agenda Title: Intergovernmental Revenue Agreement 0910063 with METRO to Provide Inmate Work Crews for Illegal Dumpsite Cleanup

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.

Requested Meeting Date:	<u>July 16, 2009</u>	Amount of Time Needed:	<u>N/A</u>
Department:	<u>Sheriff's Office</u>	Division:	<u>Corrections</u>
Contact(s):	<u>Brad Lynch</u>		
Phone:	<u>503-988-4336</u>	Ext.:	<u>84336</u>
		I/O Address:	<u>503/350</u>
Presenter(s):	<u>Consent Calendar</u>		

General Information

- 1. What action are you requesting from the Board?**
 Approval of government contract 0910063.
- 2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**
 Under the terms of this agreement the County, through the Sheriff's Office agrees to provide supervised inmate work crews to clean up illegal dumpsites within the jurisdictional boundaries of METRO. This agreement affects MCSO Corrections Work Crews program offer # 60039A and is effective from July 1, 2009 through June 30, 2010.
- 3. Explain the fiscal impact (current year and ongoing).**
 Metro agrees to compensate the Sheriff's Office for providing this service in an amount not to exceed \$223,135.00. This funding has been anticipated and is part of the FY 10 budget.
- 4. Explain any legal and/or policy issues involved.**
 This agreement has been reviewed by the County Attorney's office.

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

None other than stated above.

Required Signature

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

/s/ Bob Skipper / L.A.

Date: 07/07/09

LYNCH Brad B

From: WEBER Jacquie A [jacquie.a.weber@co.multnomah.or.us]
Sent: Wednesday, July 01, 2009 1:23 PM
To: LYNCH Brad B
Subject: RE: Contract Review Request - Metro Work Crews

This contract may be circulated for signature.

From: LYNCH Brad B [mailto:brad.lynch@mcso.us]
Sent: Wednesday, July 01, 2009 8:59 AM
To: WEBER Jacquie A
Cc: DUNAWAY Susan M
Subject: Contract Review Request - Metro Work Crews

And one more time this morning Jacquie, here is the FY10 IGA from Metro for inmate work crews dumpsite cleanup.
Thank you, Brad

Brad Lynch

Multnomah County Sheriff's Office
Fiscal Unit
501 SE Hawthorne Blvd, STE 350
Portland, OR 97214
Phone (503) 988-4336
Fax (503) 988-4317
email: brad.lynch@mcso.us

<http://www.mcso.us/>

MULTNOMAH COUNTY CONTRACT APPROVAL FORM (CAF)

Contract #: 0910063

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

Amendment #: _____

CLASS I Based on Informal / Intermediate Procurement	CLASS II Based on Formal Procurement	CLASS III Intergovernmental Contract (IGA)
<input type="checkbox"/> Personal Services Contract	<input type="checkbox"/> Personal Services Contract	<input type="checkbox"/> Expenditure Contract
<input type="checkbox"/> PCR B Contract <input type="checkbox"/> Goods or Services <input type="checkbox"/> Maintenance or Licensing Agreement <input type="checkbox"/> Public Works / Construction Contract <input type="checkbox"/> Architectural & Engineering Contract	<input type="checkbox"/> PCR B Contract <input type="checkbox"/> Goods or Services <input type="checkbox"/> Maintenance or Licensing Agreement <input type="checkbox"/> Public Works / Construction Contract <input type="checkbox"/> Architectural & Engineering Contract	<input checked="" type="checkbox"/> Revenue Contract <input type="checkbox"/> Grant Contract <input type="checkbox"/> Non-Financial Agreement
<input type="checkbox"/> Revenue Contract <input type="checkbox"/> Grant Contract <input type="checkbox"/> Non-Financial Agreement	<input type="checkbox"/> Revenue Contract <input type="checkbox"/> Grant Contract <input type="checkbox"/> Non-Financial Agreement	<input type="checkbox"/> INTER-DEPARTMENTAL AGREEMENT (IDA)

Department: Sheriff's Office Division/ Program: Corrections Date: 06/30/09
 Originator: Chief Deputy Ronald Bishop Phone: 503-988-4308 Bldg/Room: 503/350
 Contact: Brad Lynch Phone: 503-988-4336 Bldg/Room: 503/350

Description of Contract: Provide inmate work crews for illegal dumpsite clean-up.

RENEWAL: PREVIOUS CONTRACT #(S) 0809074, 0708053, 0607006 EEO Exhibit 5 required if amount over \$75k.

PROCUREMENT EXEMPTION OR CITATION # 46-0130(1)(f) ISSUE DATE: _____ EFFECTIVE DATE: _____ END DATE: _____

CONTRACTOR IS: MBE WBE ESB QRF State Cert# _____ or Self Cert Non-Profit N/A (Check all boxes that apply)

Contractor	Metro Solid Waste & Recycling			Remittance address (if different)	
Address	600 NE Grand				
City/State	Portland, Oregon			Payment Schedule / Terms:	
ZIP Code	97232			<input type="checkbox"/> Lump Sum \$ _____	<input type="checkbox"/> Due on Receipt
Phone	503-797-1700			<input type="checkbox"/> Monthly \$ _____	<input type="checkbox"/> Net 30
Employer ID# or SS#				<input type="checkbox"/> Other \$ _____	<input type="checkbox"/> Other
Contract Effective Date	07/01/09	Term Date	06/30/10	<input type="checkbox"/> Price Agreement (PA) or Requirements Funding Info:	
Amendment Effect Date		New Term Date			
Original Contract Amount	\$ 223,135.00			Original PA/Requirements Amount	\$ _____
Total Amt of Previous Amendments	\$ _____			Total Amt of Previous Amendments	\$ _____
Amount of Amendment	\$ _____			Amount of Amendment	\$ _____
Total Amount of Agreement \$	\$ 223,135.00			Total PA/Requirements Amount	\$ _____

REQUIRED SIGNATURES:

Department Manager _____ DATE _____
 County Attorney [Signature] _____ DATE 7/14/09
 CPCA Manager _____ DATE _____
 County Chair [Signature] _____ DATE 07/16/09
 Sheriff [Signature] _____ DATE 7/2/09
 Contract Administration _____ DATE _____

COMMENTS:

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS

AGENDA # C-2 DATE 07/16/09

DEBORAH L. BOGSTAD, BOARD CLERK



METRO

600 NE Grand Ave.
Portland, OR 97232-2736
(503) 797-1700

INTERGOVERNMENTAL AGREEMENT

MCSO Contract No. 0910063

Metro Contract No. 929365

THIS AGREEMENT is made pursuant to the authority found in ORS 190.010, et seq and ORS 206.345 between MULTNOMAH COUNTY ("COUNTY") by and through the Multnomah County Sheriff's Office (MCSO) and METRO.

RECITALS

WHEREAS, the COUNTY is a political subdivision of the State of Oregon and is a unit of local government authorized to enter into intergovernmental agreements pursuant to ORS 190.010, et seq; and

WHEREAS, MCSO is authorized to enter into intergovernmental agreements jointly with and on behalf of the COUNTY, pursuant to ORS 206.345(1); and

WHEREAS, METRO is a municipal corporation formed and operating under state law and the METRO Charter, and is a unit of local government authorized to enter into intergovernmental agreements pursuant to ORS 190.010, et seq; and

WHEREAS, METRO desires to contract with the COUNTY for certain law enforcement functions to be performed by MCSO; and

WHEREAS, the COUNTY is able and prepared to provide the services required by METRO under the terms and conditions set forth in this Agreement; therefore,

IN CONSIDERATION of those mutual promises and the terms and conditions set forth hereafter, and pursuant to the provisions of ORS chapter 190, the parties agree to be bound as follows:

ILLEGAL DUMPSITE CLEANUP - INMATE WORKCREWS

1. The COUNTY shall provide a minimum of 1.75 FTE corrections deputy ("supervisor") to supervise inmate work crews to clean up illegal dumpsites within METRO's jurisdiction. The COUNTY may provide additional personnel up to the "not to exceed" amount stipulated in section 25 of this Agreement.
2. The COUNTY shall clean up illegal dumpsites only as assigned by METRO.
3. The COUNTY shall provide supervisors trained and experienced in managing inmate work crews to supervise each work crew.
4. The COUNTY shall ensure that the supervisors are certified by the State's Department of Public Safety Standards and Training.
5. The COUNTY shall select for the work crews only sentenced inmates eligible for outside public works who pose a minimal threat to the public.
6. The COUNTY shall provide a trained replacement if a supervisor is absent for more than one day.
7. METRO shall provide one self-contained work crew vehicle furnished with equipment and tools appropriate to perform the work under this Agreement. The



METRO

600 NE Grand Ave.
Portland, OR 97232-2736
(503) 797-1700

INTERGOVERNMENTAL AGREEMENT

COUNTY shall use a County vehicle if an additional vehicle is required to perform the work under this Agreement.

8. METRO shall train each supervisor assigned to work under this Agreement to identify, collect, and retain evidence that may lead to successful prosecutions of persons dumping waste illegally.
9. The clean-up of illegal dumpsites containing known or suspected hazardous materials is beyond the scope, skill, training, and experience of the inmate work crews. If an inmate work crew discovers known or suspected hazardous materials at an illegal dump site, the supervisor shall immediately cease the clean-up activity until the appropriate hazardous materials authority inspects the site and declares or makes it safe.

PERSONNEL MATTERS

10. For the purpose of this Agreement, one (1.0) FTE position means an employee who is regularly scheduled to work at least 40 hours per week performing the services required under this Agreement.
11. The COUNTY shall ensure that any corrections deputy assigned as a supervisor has sufficient experience to perform the duties required by this Agreement. If a corrections deputy has not served previously as a supervisor under this Agreement, the COUNTY shall require the corrections deputy to observe a supervisor performing the duties under this Agreement for at least two weeks before beginning duty under this Agreement.
12. The supervisors shall be and remain COUNTY employees. The COUNTY shall ensure that the supervisors perform their duties in accordance with the administrative and operational procedures of MCSO.
13. METRO has the right, upon request and for cause stated, to have a supervisor removed from assignment under this Agreement and replaced by other supervisor meeting the requirements of this Agreement.
14. METRO will not pay wages, salaries, or other compensation directly to the supervisors performing services under this Agreement or for any other liability not provided for in this Agreement.
15. The COUNTY shall maintain Workers' Compensation insurance coverage for the supervisors and inmate work crews either as a carrier insured employer or a self-insured employer as provided in ORS Chapter 656.
16. The collective bargaining agreement between the supervisors and the COUNTY ("collective bargaining agreement") governs all matters related to benefits, hours, vacations, sick leave, grievance procedures and other conditions of employment of the supervisors.
17. The collective bargaining agreement and the County personnel rules govern all labor disputes arising out of this Agreement.
18. The payment METRO makes to the COUNTY under this Agreement shall not include any amount for retroactive salary adjustments negotiated under the collective bargaining agreement.



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Portland, OR 97232-2736
(503) 797-1700

INTERGOVERNMENTAL AGREEMENT

19. The supervisors may be absent from duty for various reasons, including but not limited to vacation, holidays, illness, training, leave of absence, and administrative leave. The COUNTY shall provide METRO with immediate notice of any absence of a supervisor. If the absence is planned, the COUNTY shall inform METRO as soon as the COUNTY is aware of the absence, but in any case no fewer than two weeks before the absence begins.

EQUIPMENT PURCHASE, USE, AND DISPOSITION

20. The parties will purchase materials and supplies necessary for this Agreement as provided in this section. "Materials" includes items with a unit cost of \$1,000 or more and "supplies" includes items with a unit cost of less than \$1,000.
21. METRO shall purchase all materials and supplies necessary for the performance of this Agreement. The COUNTY shall purchase any materials and supplies required for law enforcement functions not directly related to the clean-up of illegal dumpsites.
22. METRO shall own all vehicles and equipment it purchases for this Agreement, including without limitation capital equipment. The COUNTY shall use METRO's vehicles and equipment only to perform its duties under this Agreement and shall not use them for any other purpose without authorization from METRO. Except as provided in paragraph 23, upon termination of this Agreement the COUNTY shall return all materials and supplies to METRO.
23. Consistent with METRO Code Chapter 2.04.064, upon termination of this Agreement METRO may grant to the COUNTY an option to purchase from METRO any or all remaining materials and supplies purchased for this Agreement at a price mutually agreed upon by the parties, not to exceed the fair market value of the items at the times of purchase. The COUNTY agrees to give METRO notice of the COUNTY's intent to exercise this option within 60 days following termination of this Agreement.

CONTRACT COSTS

24. METRO shall pay the COUNTY for all costs as set forth in this Agreement. By February 1 of each year, the COUNTY shall provide METRO with a good faith projection of the cost of this Agreement for the subsequent term of the Agreement. The parties shall agree on the amount paid by METRO for the term of the Agreement before each anniversary date of the execution of this Agreement.
25. For the Agreement beginning July 1, 2009, METRO will pay the COUNTY no more than TWO HUNDRED TWENTY-THREE THOUSAND ONE HUNDRED THIRTY-FIVE (\$223,135.00). This amount includes all fees, costs, and expenses to which the COUNTY is entitled for the term of this Agreement.
26. All costs listed on Exhibit A, which is the Budget for the Agreement prepared by METRO, are on a "not to exceed" basis. The COUNTY shall submit itemized billings to METRO no more than fifteen (15) days after the end of each quarter of the contract year, and METRO shall make payment to COUNTY within thirty (30) days of receipt of approved billings.



METRO

600 NE Grand Ave.
Portland, OR 97232-2736
(503) 797-1700

INTERGOVERNMENTAL AGREEMENT

INDEMNIFICATION AND LIABILITY

27. Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, the COUNTY shall indemnify, defend and hold harmless METRO from and against all liability, loss, and costs arising out of or resulting from the acts of the COUNTY, its officers, employees, and agents in the performance of this Agreement.
28. Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, METRO shall indemnify, defend, and hold harmless the COUNTY from and against all liability, loss, and costs arising out of or resulting from the acts of METRO, its officers, employees, and agents in the performance of this Agreement.

DISPUTE RESOLUTION

29. If a claim, controversy, or dispute arises out of this Agreement, the complaining party shall give written notification to the other party of the nature of the claim and the remedy requested within ten (10) days of the incident that forms the basis of the dispute.
30. Oregon law shall govern this Agreement. The parties shall resolve all claims, controversies, or disputes that arise out of this Agreement by arbitration in accordance with the arbitration rules of the Arbitration Service of Portland or the American Arbitration Association. The party who first initiates arbitration shall designate an arbitration service by filing a claim in accordance with the rules of the organization selected. Such arbitration shall take place in Portland, Oregon and any judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof.

CONTRACT ADMINISTRATION

31. The Multnomah County Sheriff or his designated representative will represent the COUNTY in all matters pertaining to administration of this Agreement.
32. METRO designates its Finance and Regulatory Services Department Director or her designee to represent METRO in all matters pertaining to administration of this Agreement.
33. Any notice or notices provided for by this Agreement or by law to be given or served upon either party shall be given or served by certified letter, deposited in the U.S. mail, postage prepaid, and addressed to:

Multnomah County Sheriff
501 SE Hawthorne Blvd., Ste 350
Portland, Oregon 97214

Finance and Regulatory Services Department
Director
METRO
600 NE Grand Avenue
Portland, Oregon 97232



METRO

600 NE Grand Ave.
Portland, OR 97232-2736
(503) 797-1700

INTERGOVERNMENTAL AGREEMENT

CONTRACT TERM, MODIFICATION, AND TERMINATION

- 34. This Agreement shall be effective from the 1st day of July 2009, and shall run through the 30th day of June 2010, unless extended.
- 35. Either party to this Agreement may terminate the Agreement by giving the other party not less than ninety (90) days written notice.
- 36. This Agreement may be modified or amended by agreement of the parties. Any modification to this Agreement shall be effective only when incorporated herein by written amendments and signed by both METRO and the COUNTY.
- 37. This Agreement shall not be deemed to vest in any third party any rights, nor shall it be deemed to be enforceable by any third party in any legal, equitable, or administrative proceeding whatsoever.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly appointed officers on the date written below.

MULTNOMAH COUNTY

METRO

By: *Bob Skipper*
Bob Skipper, Sheriff

By: _____
Michael Jordan,
Chief Operating Officer

Date: 7/7/09

Date: _____

By: *Ted Wheeler*
Ted Wheeler, Multnomah County Chair

Date: 07/14/09

APPROVED AS TO FORM:
Multnomah County Attorney

APPROVED AS TO FORM:
Metro Attorney

By: *[Signature]*
Assistant County Attorney

By: *[Signature]*
Michelle Belfia,
Senior Metro Attorney

Date: 7/14/09

Date: _____



METRO

600 NE Grand Ave.
Portland, OR 97232-2736
(503) 797-1700

INTERGOVERNMENTAL AGREEMENT

EXHIBIT A

CONTRACT BUDGET

		Work Crew (2.00 FTE) ¹
50236	IG-Charges for Services	(223,135)
	Total Revenues	(223,135)
60000	Permanent	128,238
60130	Salary Related Expenses	46,102
	Subtotal	174,340
60140	Insurance	33,174
	Total Personnel Costs	207,514
60170	Professional Services	1,200
	Total M&S	1,200
60350	Indirect Costs (cntrl)	5,677
60355	Indirect Costs (dptml)	8,744
	Total ISR's	14,421
60530	Building	
60550	Equipment	
93002	Assess Labor	
93007	Assess Int Service Exp	
93019	Assess Shared Svcs	
	Total Budget	223,135

SK:bjl
S:\REM\ntem\Contracts\MCSO\2009-2010_MCSO_Workcrew Cleanup IGA_Final.doc

¹ The contract requires a minimum of 1.75 FTE but allows for additional personnel, not to exceed the amount of the budget. The budget is based on 2.0 FTE.



MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST (revised 09/22/08)

Board Clerk Use Only

Meeting Date: 07/16/09
 Agenda Item #: C-3
 Est. Start Time: 9:30 AM
 Date Submitted: 07/08/09

Agenda Title: Intergovernmental Revenue Agreement 0910064 with METRO to Provide General Investigative Police Services for Enforcement of METRO Ordinances

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.

Requested Meeting Date: July 16, 2009 Amount of Time Needed: N/A
 Department: Sheriff's Office Division: Enforcement
 Contact(s): Brad Lynch
 Phone: 503-988-4336 Ext. 84336 I/O Address: 503/350
 Presenter(s): Consent Calendar

General Information

1. What action are you requesting from the Board?

Approval of government contract 0910064.

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

Under the terms of this agreement with Metro, a regional government that serves Multnomah, Clackamas, and Washington counties, the Sheriff's Office provides one FTE detective to combat illegal dumping, flow control and solid waste enforcement. The Detective in this unit has knowledge of applicable laws and ordinances and works to enforce these laws. This includes (but is not limited to): investigation and surveillance of companies that haul waste to determine if they are disposing of solid waste properly, investigation of incidents of illegal dumping, coordination of efforts to curtail problems and educate stakeholders with issues associated with solid waste, surveillance of chronic dump sites, and the coordination of the legal removal of chronic transient camps. This agreement affects MCSO Metro Services program offer # 60074. The agreement is effective July 1, 2009 through June 30, 2010.

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

Metro agrees to compensate the County for providing this service in an amount not

to exceed \$129,125.00. This revenue has been anticipated and is part of the FY 10 budget.

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

This agreement has been reviewed by the County Attorney's office.

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

None other than stated above.

Required Signature

Elected Official or
Department/
Agency Director:

/s/ *Bob Skipper / L.A.*

Date: 07/07/09

MULTNOMAH COUNTY CONTRACT APPROVAL FORM (CAF)

Contract #: 0910064

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

Amendment #: _____

CLASS I Based on Informal / Intermediate Procurement	CLASS II Based on Formal Procurement	CLASS III Intergovernmental Contract (IGA)
<input type="checkbox"/> Personal Services Contract	<input type="checkbox"/> Personal Services Contract	<input type="checkbox"/> Expenditure Contract
<input type="checkbox"/> PCRB Contract <input type="checkbox"/> Goods or Services <input type="checkbox"/> Maintenance or Licensing Agreement <input type="checkbox"/> Public Works / Construction Contract <input type="checkbox"/> Architectural & Engineering Contract	<input type="checkbox"/> PCRB Contract <input type="checkbox"/> Goods or Services <input type="checkbox"/> Maintenance or Licensing Agreement <input type="checkbox"/> Public Works / Construction Contract <input type="checkbox"/> Architectural & Engineering Contract	<input checked="" type="checkbox"/> Revenue Contract <input type="checkbox"/> Grant Contract <input type="checkbox"/> Non-Financial Agreement
<input type="checkbox"/> Revenue Contract <input type="checkbox"/> Grant Contract <input type="checkbox"/> Non-Financial Agreement	<input type="checkbox"/> Revenue Contract <input type="checkbox"/> Grant Contract <input type="checkbox"/> Non-Financial Agreement	<input type="checkbox"/> INTER-DEPARTMENTAL AGREEMENT (IDA)

Department: Sheriff's Office Division/ Program: Enforcement Date: 06/30/09
 Originator: Captain Monte Reiser Phone: 503-255-3600 Bldg/Room: 313
 Contact: Brad Lynch Phone: 503-988-4336 Bldg/Room: 503/350

Description of Contract: Investigative and enforcement services for solid waste ordinances.

RENEWAL: PREVIOUS CONTRACT #(S) : 0809073, 0708052, 0607005 EEO Exhibit 5 required if amount over \$75k

PROCUREMENT EXEMPTION OR CITATION # 46-0130(1)(f) ISSUE DATE: _____ EFFECTIVE DATE: _____ END DATE: _____

CONTRACTOR IS: MBE WBE ESB QRF State Cert# _____ or Self Cert Non-Profit N/A (Check all boxes that apply)

Contractor	<u>Metro Solid Waste & Recycling</u>			Remittance address (If different)	_____
Address	<u>600 NE Grand</u>			Payment Schedule / Terms:	_____
City/State	<u>Portland, Oregon</u>			<input type="checkbox"/> Lump Sum \$ _____	<input type="checkbox"/> Due on Receipt
ZIP Code	<u>97232</u>			<input type="checkbox"/> Monthly \$ _____	<input type="checkbox"/> Net 30
Phone	<u>503-797-1700</u>			<input type="checkbox"/> Other \$ _____	<input type="checkbox"/> Other
Employer ID# or SS#	_____			<input type="checkbox"/> Price Agreement (PA) or Requirements Funding Info:	
Contract Effective Date	<u>07/01/09</u>	Term Date	<u>06/30/10</u>		
Amendment Effect Date	_____	New Term Date	_____		
Original Contract Amount	\$	<u>129,125.00</u>	Original PA/Requirements Amount	\$	_____
Total Amt of Previous Amendments	\$	_____	Total Amt of Previous Amendments	\$	_____
Amount of Amendment	\$	_____	Amount of Amendment	\$	_____
Total Amount of Agreement	\$	<u>129,125.00</u>	Total PA/Requirements Amount	\$	_____

REQUIRED SIGNATURES:

Department Manager _____	DATE _____
County Attorney <u>[Signature]</u>	DATE <u>7/14/09</u>
CPCA Manager _____	DATE _____
County Chair <u>[Signature]</u>	DATE <u>07/16/09</u>
Sheriff <u>[Signature]</u>	DATE <u>7/7/09</u>
Contract Administration _____	DATE _____

COMMENTS: _____

APPROVED: MULTNOMAH COUNTY BOARD OF COMMISSIONERS
 AGENDA # C-3 DATE 07-16-09
 DEBORAH L. BOGSTAD, BOARD CLERK

LYNCH Brad B

From: WEBER Jacquie A [jacquie.a.weber@co.multnomah.or.us]
Sent: Wednesday, July 01, 2009 11:30 AM
To: LYNCH Brad B
Subject: RE: Contract Review Request - Metro Investigations

This contract may be circulated for signature.

From: LYNCH Brad B [mailto:brad.lynch@mcsso.us]
Sent: Wednesday, July 01, 2009 8:56 AM
To: WEBER Jacquie A
Cc: DUNAWAY Susan M
Subject: Contract Review Request - Metro Investigations

Good morning Jacquie. Attached is the FY10 IGA from Metro to fund a detective for illegal dumping, flow control, etc. investigations.

Thanks, Brad

Brad Lynch

Multnomah County Sheriff's Office
Fiscal Unit
501 SE Hawthorne Blvd, STE 350
Portland, OR 97214
Phone (503) 988-4336
Fax (503) 988-4317
email: brad.lynch@mcsso.us

<http://www.mcsso.us/>



METRO

600 NE Grand Ave.
Portland, OR 97232-2736
(503) 797-1700

INTERGOVERNMENTAL AGREEMENT

MCSO Contract No. 0910064

Metro Contract No. 929366

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made under the authority found in ORS 190.010, et seq., and ORS 206.345 between MULTNOMAH COUNTY ("COUNTY") by and through the Multnomah County Sheriff's Office ("MCSO") and METRO, (collectively referred herein as "Parties").

RECITALS

WHEREAS, the COUNTY is a political subdivision of the state of Oregon and is a unit of local government authorized to enter into intergovernmental agreements pursuant to ORS 190.010, et seq.; and

WHEREAS, MCSO is authorized to enter into intergovernmental agreements jointly with and on behalf of the COUNTY pursuant to ORS 206.345; and

WHEREAS, METRO is an Oregon municipal corporation formed and operating under state law and the Metro Charter, and is a unit of local government authorized to enter into intergovernmental agreements pursuant to ORS 190.010, et seq.; and

WHEREAS, this Agreement replaces and supercedes MCSO Contract No. 0809073 / Metro Contract No. 928653; and

WHEREAS, METRO desires to contract with the COUNTY for the performance of certain law enforcement functions to be performed by the COUNTY through MCSO; and

WHEREAS, the COUNTY is able and prepared to provide the services required by METRO under the terms and conditions set forth in this Agreement; now therefore,

IN CONSIDERATION of those mutual promises and the terms and conditions set forth hereafter and pursuant to the provisions of ORS chapter 190, the Parties agree to be bound as follows:

A. INVESTIGATION

1. The COUNTY shall provide general investigative law enforcement service to METRO at Metro's direction. This service shall include:
 - (a) Enforcement of the METRO code and regulations, including without limitation provisions related to flow control investigation, illegal dumping, and solid waste management;
 - (b) Random and directed surveillance of persons collecting,



INTERGOVERNMENTAL AGREEMENT

- transporting, storing, treating, and disposing of solid and liquid waste to ensure such persons are complying with the METRO code and regulations;
- (c) Assistance with investigation, case preparation, and prosecution in cases involving offenses (including without limitation fraud, racketeering, and material breach of contract) allegedly committed by vendors, contractors, or subcontractors doing business with METRO or by facilities, firms or individuals subject to METRO ordinances and regulations;
 - (d) Investigations of suspected violations of environmental laws, rules, and ordinances; and
 - (e) Other general investigative work as requested by Metro.
2. In accordance with ORS 206.345(2), during the existence of this Agreement, the Sheriff and the Deputy Sheriff shall exercise such authority as may be vested in them by law or by terms of this Agreement, including full power and authority to cite, arrest, and take other enforcement action for violations of all METRO code provisions and regulations, including without limitation those relating to flow control and waste management.

B. PERSONNEL MATTERS

1. The COUNTY shall provide for the performance of the duties hereunder one (1) FTE Deputy Sheriff. For the purpose of this Agreement, one (1) FTE position means an employee who is regularly scheduled to work at least 40 hours per week performing the services required under this Agreement.
2. The COUNTY shall be responsible for assuring that the Deputy Sheriff assigned to Metro is certified by the Oregon Department of Public Safety Standards and Training, and that the Deputy Sheriff maintains such certification.
3. For a Deputy Sheriff who has been assigned to METRO for one (1) year or longer, METRO shall pay one-half (1/2) of personnel costs for absences due to general law enforcement training. Metro shall not pay personnel costs for absences due to specialized law enforcement training that do not relate directly to the services provided under the terms of this Agreement.
4. The Deputy Sheriff shall be and remain an employee of the COUNTY. The COUNTY shall ensure that the Deputy Sheriff performs the duties in



INTERGOVERNMENTAL AGREEMENT

accordance with the administrative and operational procedures of MCSO.

5. METRO has the right, upon request and for cause stated, to have the Deputy Sheriff removed from assignment under this Agreement and replaced within three weeks by another Deputy Sheriff, meeting the requirements of this Agreement.
6. METRO will not pay wages, salaries, or other compensation directly to the Deputy Sheriff performing services under this Agreement or for any other liability not provided for in this Agreement.
7. The COUNTY shall maintain Workers' Compensation insurance coverage for the Deputy Sheriff, either as a carrier insured employer or a self-insured employer as provided in ORS Chapter 656.
8. The collective bargaining agreement between the Deputy Sheriff and the COUNTY ("collective bargaining agreement") governs all matters related to benefits, hours, vacations, sick leave, grievance procedures and other conditions of employment of the supervisors.
9. The collective bargaining agreement and the County personnel rules govern all labor disputes arising out of this Agreement.
10. The Deputy Sheriff may be absent from duty for various reasons, including but not limited to vacation, holidays, illness, training, leave of absence, and administrative leave in accordance with the foregoing acknowledgment:
 - (a) The COUNTY shall not be responsible for or otherwise obligated to replace a Deputy Sheriff who is absent due to paid accrued leave, including without limitation vacation, holiday, sick, and training leave. The COUNTY shall make a good faith effort to schedule planned absences to minimize the impact on the COUNTY's ability to perform under this Agreement, and to provide a replacement in the event that an absence is anticipated to last longer than three weeks.
 - (b) The COUNTY may invoice METRO, and METRO shall pay, the personnel costs of a Deputy Sheriff absent on vacation or sick leave, up to a total combined annual contract year maximum of 120 hours, only if the Deputy Sheriff has been assigned to METRO for six (6) months or longer. METRO shall pay personnel costs for a Deputy Sheriff absent during the following nine (9) holidays when METRO's offices are closed:



INTERGOVERNMENTAL AGREEMENT

- (1) New Years Day;
- (2) Martin Luther King Day;
- (3) Presidents' Day;
- (4) Memorial Day;
- (5) Independence Day;
- (6) Labor Day;
- (7) Veterans Day;
- (8) Thanksgiving Day;
- (9) Christmas Day.

C. OFFICE SPACE

METRO shall provide the Deputy Sheriff with office space and shall pay the costs for utilities, including without limitation telephone costs, at METRO's premises or at a site mutually agreed upon by the COUNTY and METRO.

D. EQUIPMENT PURCHASE, USE AND DISPOSITION

1. The Parties will purchase materials and supplies necessary for this Agreement as provided in this section. "Materials" includes items with a unit cost of \$1,000.00 or more, and "supplies" includes items with a unit cost of less than \$1,000.00.
2. METRO shall purchase all materials and supplies necessary for the performance of this Agreement.
3. METRO shall own all vehicles and equipment it purchases for this Agreement, including without limitation capital equipment. The COUNTY shall use METRO's vehicles and equipment only to perform its duties under this Agreement and shall not use them for any other purpose without authorization from METRO. Metro shall pay fuel and maintenance costs for its vehicles. Except as provided in paragraph 17, upon termination of this Agreement, the COUNTY shall return all materials and supplies to METRO.
4. Consistent with Metro Code Chapter 2.04.064, upon termination of this Agreement, METRO may grant to the COUNTY an option to purchase from METRO any or all remaining materials and supplies purchased for this Agreement at a price mutually agreed upon by the Parties, not to exceed the fair market value of the items at the times of purchase. The COUNTY agrees to give METRO notice of the COUNTY's intent to exercise this option within 60 days following termination of this Agreement.



INTERGOVERNMENTAL AGREEMENT

E. CONTRACT COSTS

1. METRO shall pay the COUNTY for all costs as set forth in this Agreement. By February 1 of each year, the COUNTY shall provide METRO with a good faith projection of the cost of this Agreement for the following fiscal year (July 1 to June 30). The Parties shall agree on the amount paid by METRO for the term of the Agreement before each anniversary date of the execution of this Agreement.
2. Under this Agreement, METRO will pay the COUNTY no more than ONE HUNDRED TWENTY-NINE THOUSAND ONE HUNDRED TWENTY-FIVE AND NO/100 DOLLARS (\$129,125.00). This amount includes all fees, costs, and expenses to which COUNTY is entitled for the term of this Agreement.
3. All costs listed on Exhibit A, which is the Budget for the Agreement prepared by METRO, are on a "not to exceed" basis. The COUNTY shall submit itemized billings to METRO no more than 15 days after the end of each quarter of the contract term, and METRO shall make payment to COUNTY within 30 days of receipt of approved billings.

F. INDEMNIFICATION AND LIABILITY

1. Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, the COUNTY shall indemnify, defend and hold harmless METRO from and against all liability, loss, and costs arising out of or resulting from the acts of the COUNTY, its officers, employees, and agents in the performance of this Agreement.
2. Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, METRO shall indemnify, defend, and hold harmless the COUNTY from and against all liability, loss, and costs arising out of or resulting from the acts of METRO, its officers, employees, and agents in the performance of this Agreement.

G. DISPUTE RESOLUTION

1. If a claim, controversy, or dispute arises out of this Agreement, the complaining party shall attempt to resolve amicably by phone or in person. If unable to resolve, the party shall give written notification to the other party of the nature of the claim and the remedy requested within 10 days of the incident that forms the basis of the dispute.
2. Oregon law shall govern this Agreement. The Parties shall resolve all



INTERGOVERNMENTAL AGREEMENT

claims, controversies, or disputes that arise out of this Agreement by arbitration in accordance with the arbitration rules of the Arbitration Service of Portland or the American Arbitration Association. The party who first initiates arbitration shall designate an arbitration service by filing a claim in accordance with the rules of the organization selected. Such arbitration shall take place in Portland, Oregon and any judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof.

H. CONTRACT ADMINISTRATION

1. The Multnomah County Sheriff or his designated representative will represent the COUNTY in all matters pertaining to administration of this Agreement.
2. METRO designates its Finance and Regulatory Services Director or the Director's designee to represent METRO in all matters pertaining to administration of this Agreement.
3. Any notice or notices provided for by this Agreement or by law to be given or served upon either party shall be given or served by certified letter, deposited in the U.S. mail, postage prepaid, and addressed to:

Multnomah County Sheriff
501 SE Hawthorne Blvd., Ste 350
Portland, Oregon 97214

Finance and Regulatory Services Director
METRO
600 NE Grand Avenue
Portland, Oregon 97232

I. CONTRACT TERM, MODIFICATION, AND TERMINATION

1. This Agreement shall be effective from July 1, 2009, through June 30, 2010, unless extended.
2. Either party to this Agreement may terminate said Agreement by giving the other party not less than 90 days written notice.
3. This Agreement may be modified or amended by agreement of the Parties. Any modification to this Agreement shall be effective only when incorporated herein by written amendments and signed by both METRO and the COUNTY.
4. This Agreement shall not be deemed to vest in any third party any rights, nor shall it be deemed to be enforceable by any third party in any legal, equitable, or administrative proceeding whatsoever.



METRO

600 NE Grand Ave.
Portland, OR 97232-2736
(503) 797-1700

INTERGOVERNMENTAL AGREEMENT

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly appointed officers on the date written below.

MULTNOMAH COUNTY

METRO

By: *Bob Skipper*
Bob Skipper, Sheriff

By: _____
Michael J. Jordan
Chief Operating Officer

Date: 7/1/09

Date: _____

By: *Ted Wheeler*
Ted Wheeler, Multnomah County Chair

Date: July 16, 2009

APPROVED AS TO FORM:
Multnomah County Attorney

APPROVED AS TO FORM:
Metro Attorney

By: *[Signature]*
Assistant County Attorney

By: *[Signature]*
Michelle A. Bellia
Senior Metro Attorney

Date: 7/19/09

Date: _____



INTERGOVERNMENTAL AGREEMENT

EXHIBIT A

CONTRACT BUDGET

		Detective (1.0 FTE)
50236	IG-Charges for Services	(129,125)
	Total Revenues	(129,125)
60000	Permanent	74,082
60130	Salary Related Expenses	26,632
	Subtotal	100,714
60140	Insurance	18,714
	Total Personnel Costs	119,428
60170	Professional Services	-
	Total M&S	-
60350	Indirect Costs (cntrl)	3,247
60355	Indirect Costs (dptml)	6,449
	Total ISR's	9,697
60530	Building	
60550	Equipment	
93002	Assess Labor	
93007	Assess Int Service Exp	
93019	Assess Shared Svcs	
	Total Budget	129,125

SK:bj
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MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST (revised 09/22/08)

Board Clerk Use Only

Meeting Date: 07/16/09
Agenda Item #: R-1
Est. Start Time: 9:30 AM
Date Submitted: 06/26/09

Agenda Title: **PROCLAMATION Declaring July 19th through July 25th, 2009 as Probation, Parole and Community Supervision Week in Multnomah County, Oregon**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.

Requested Meeting Date: July 16, 2009 **Amount of Time Needed:** 15 minutes
Department: Department of Community Justice **Division:** Director's Office
Contact(s): Jason Ziedenberg, Department of Community Justice
Phone: 503-988-4376 **Ext.** 84376 **I/O Address:** 503/250
Presenter(s): Scott Taylor and invited others

General Information

1. What action are you requesting from the Board?

The Department of Community Justice would like the Multnomah County Board of Commissioners to declare July 19th to 25th, 2009 Probation, Parole and Community Supervision Week.

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

Each year, the Multnomah County Board of Commissioner's joins communities around the country in recognizing the dedication and hard work of the County's Community Justice Probation, Parole and Community Supervision Officers and staff, in both the adult and juvenile system.

This item has no impact on DCJ program offers.

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

This item has no fiscal impact for the county.

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

This item is a proclamation, and carries no legal or policy impacts.

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

As part of the proclamation, we expect the Chair and Commissioners in attendance to respond to the presentation with a few works. We also expect that a citizen may join us as part of the panel to speak about the impact of DCJ's work in the community.

Required Signature

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



A handwritten signature in black ink, appearing to read "D. M. Taylor". The signature is written in a cursive style and is positioned above a horizontal line.

Date: June 26, 2009

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

PROCLAMATION NO. _____

Declaring July 19th through July 25th, 2009 as Probation, Parole and Community Supervision Week in Multnomah County, Oregon

The Multnomah County Board of Commissioners Finds:

- a. Community corrections is an essential part of the criminal justice and public safety system;
- b. Department of Community Justice (DCJ) professionals uphold the law with dignity and affirm the right of the public to be safe-guarded from criminal activity;
- c. DCJ staff are responsible for supervising approximately 8,500 adult probationers and parolees and nearly 1,000 youth on formal and informal community supervision in Multnomah County;
- d. DCJ staff hold adult and juvenile offenders accountable, and DCJ staff help the county and the criminal justice system enhance community safety, reduce criminal activity, and help the community make effective use of public resources;
- e. DCJ staff protect public safety with care and concern – they are trained professionals who arrange or provide prevention, intervention and behavior-change services to offenders, which are effective in reducing criminal behavior and recidivism;
- f. DCJ staff work in partnership with law enforcement partners and community agencies and groups;
- g. DCJ staff provide services, support, and protection for victims;
- h. DCJ staff support victims and advocate for the restoration of communities harmed by crime and delinquent behavior;

The Multnomah County Board of Commissioners Proclaims:

July 19th through July 25th, 2009 is declared PROBATION, PAROLE and COMMUNITY SUPERVISION WEEK in Multnomah County, Oregon, in honor, recognition and respect for the dedication and contributions of the County's Community Justice Officers and staff.

ADOPTED this 16th day of July, 2009.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, County Chair

Deborah Kafoury,
Commissioner District 1

Jeff Cogen,
Commissioner District 2

Judy Shiprack,
Commissioner District 3

Diane McKeel,
Commissioner District 4

SUBMITTED BY:
Scott Taylor, Director, Dept. of Community Justice

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

PROCLAMATION NO. 09-097

Declaring July 19th through July 25th, 2009 as Probation, Parole and Community Supervision Week in Multnomah County, Oregon

The Multnomah County Board of Commissioners Finds:

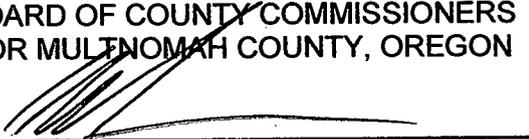
- a. Community corrections is an essential part of the criminal justice and public safety system;
- b. Department of Community Justice (DCJ) professionals uphold the law with dignity and affirm the right of the public to be safe-guarded from criminal activity;
- c. DCJ staff are responsible for supervising approximately 8,500 adult probationers and parolees and nearly 1,000 youth on formal and informal community supervision in Multnomah County;
- d. DCJ staff hold adult and juvenile offenders accountable, and DCJ staff help the county and the criminal justice system enhance community safety, reduce criminal activity, and help the community make effective use of public resources;
- e. DCJ staff protect public safety with care and concern – they are trained professionals who arrange or provide prevention, intervention and behavior-change services to offenders, which are effective in reducing criminal behavior and recidivism;
- f. DCJ staff work in partnership with law enforcement partners and community agencies and groups;
- g. DCJ staff provide services, support, and protection for victims;
- h. DCJ staff support victims and advocate for the restoration of communities harmed by crime and delinquent behavior;

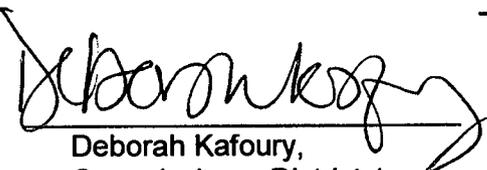
The Multnomah County Board of Commissioners Proclaims:

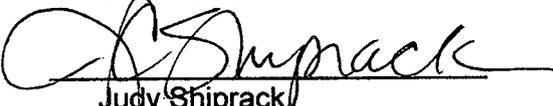
July 19th through July 25th, 2009 is declared PROBATION, PAROLE and COMMUNITY SUPERVISION WEEK in Multnomah County, Oregon, in honor, recognition and respect for the dedication and contributions of the County's Community Justice Officers and staff.

ADOPTED this 16th day of July, 2009.

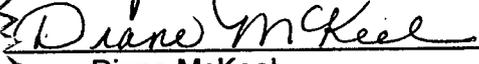
BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Ted Wheeler, County Chair

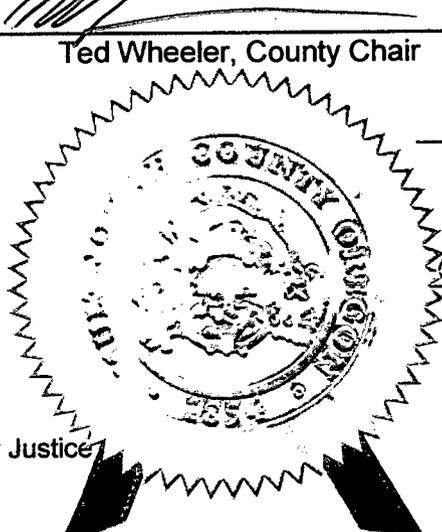

Deborah Kafoury,
Commissioner District 1


Judy Shiprack,
Commissioner District 3


Jeff Cogen,
Commissioner District 2


Diane McKeel,
Commissioner District 4

SUBMITTED BY:
Scott Taylor, Director, Dept. of Community Justice





MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST (short form)

Board Clerk Use Only

Meeting Date: 07/16/09
 Agenda Item #: R-2
 Est. Start Time: 9:45 AM
 Date Submitted: 07/01/09

Agenda Title: RESOLUTION Urging Immediate Passage of Comprehensive Federal Health Reform Legislation

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

Requested Meeting Date: July 16, 2009 Amount of Time Needed: 10 mins
 Department: Health Division: Director's Office
 Contact(s): Lillian Shirley
 Phone: 503 988-3674 Ext. 22750 I/O Address: 160/8
 Presenter(s): Lillian Shirley, Director, Health Department

General Information

1. What action are you requesting from the Board?

Reading of resolution urging immediate passage of comprehensive federal health reform legislation. Endorsing NACo's health reform principles, as summarized in *Restoring the Partnership for American Health: Counties in a 21st Century Health System*. Requesting Board to strongly urge the 111th Congress of the United States to enact comprehensive health reform legislation without delay before the end of its first session.

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

Experts from across the political spectrum agree that America's health system is "broken" and unsustainable in its present configuration. Families in Multnomah County are experiencing this crisis right now, confronting the high cost of health care. Employer-sponsored health insurance premiums have nearly doubled in recent years. Millions of Americans do not have health coverage, or have inadequate coverage. A growing proportion of county residents do not have access to affordable health care.

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

It costs the County \$61.5 million to meet health obligations in the community, including

\$19 million for public health, \$14 million for indigent care, \$13 million for corrections health, \$1.5 million for local Medicaid match; and \$14 million for mental health and addiction obligations.

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

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

National Association of Counties (NACo) Health System Reform Working Group, appointed by President Don Stapley in July 2008 and chaired by President-Elect Valerie Brown, has held three regional hearings to explore the health crisis and to hear what county officials believe should be done about it and has summarized its findings in *Restoring the Partnership for American Health: Counties in a 21st Century Health System* which was approved and adopted by resolution of the NACo Health Steering Committee and Board of Directors on March 9, 2009.

Required Signature

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

Lillian Shirley

Date: 07/01/09

National Association of Counties in Collaboration with National Association of City and County health Officials

Restoring the Partnership for American Health Why health Care Reform Matters to Counties

Counties in a 21st Century Health System

Full Partners:

County governments are integral to America's current health system and will be crucial partners in achieving successful reform. At the most basic level, county officials are elected to protect the health and welfare of their constituents. County governments set the local ordinances and policies which govern the built environment, establishing the physical context for healthy, sustainable communities. County public health officials work to promote healthy lifestyles and to prevent injuries and diseases. Counties are key providers of the local health care safety net infrastructure, financing and operating clinics and health centers. County governments also often serve as the payer of last resort for the medically indigent. County jails must offer their inmates health care as required by the U.S. Supreme Court. Counties provide services for seniors. County behavioral health authorities help people with serious mental health, developmental disability and substance abuse problems that would have nowhere else to turn. And as employers, county governments provide health benefits to the nearly three million county workers and their retirees nationwide. In Multnomah County that number is \$61.5 million. Clearly, county tax payers contribute billions of dollars to the American health care system every year and their representatives must be at the table as full partners in order to achieve the goal of one hundred percent access and zero disparities.

Local Delivery Systems – Access for All:

NACo believes that reform must focus on access and delivery of quality health services. Coverage is not enough. County officials, particularly in remote rural or large urban areas know that even those with insurance may have difficulty gaining access to the services of a health care provider, which can be exacerbated by the severity of their illness. Local delivery systems should coordinate services to ensure efficient and cost-effective access to care, particularly primary and preventive care, for underserved populations. County governments are uniquely qualified to convene the appropriate public and private partners to build these local delivery systems in a way that will respect the unique needs of individuals and their communities. A restored federal commitment to such partnerships is necessary for equity's sake.

Public Health and Wellness:

NACo believes that a greater focus on disease and injury prevention and health promotion is a way to improve the health of our communities and to reduce health care costs. Disease and injury prevention and health promotion services can be delivered by a health care professional one patient at a time. Local health departments, in partnership with community based organizations and traditional health care providers; deliver community-based prevention services targeted at an entire population. Population-based prevention services can save money by keeping people healthy and reducing the costs of treating unchecked chronic disease. These critical services include assessment of the health status of communities to identify the unique and most pressing health problems of each community and health education to provide individuals with the knowledge and skills to maintain and improve their own health. The public health response to emergencies should be fully integrated into each county's emergency management plan. Local public health considerations likewise should be systematically integrated into land use planning and community design processes to help prevent injuries and chronic disease. Policies are also needed to address health inequity, the systemic, avoidable, unfair and unjust differences in health status and mortality rates, as well as the distribution of disease and illness across population groups. Investing in wellness and prevention across all communities will result in better health outcomes, increased productivity and reduce costs associated with chronic diseases.

Expanding Coverage:

NACo supports universal health insurance coverage. Existing public health insurance systems should be strengthened and expanded, including Medicare, Medicaid and the State Children's Health Insurance Program (SCHIP). As states and counties attempt to shoulder their legislatively mandated responsibilities to provide care for the indigent and uninsured, federal regulatory barriers should be removed to allow flexibility and innovation at the local level. Furthermore, in the effort to expand coverage, reformers should not forget that the coverage must be meaningful, without imposing additional mandates on county governments. The benefit package must be defined so as to provide the full range of services people need, including prevention services, full parity for behavioral health, substance abuse and developmental disability services. Barriers to cost-effective treatments, like living organ donation, should be removed.

Maintaining a Safety Net:

NACo believes that the intergovernmental partnership envisioned in the Medicaid statute should be restored and strengthened. Local safety nets constructed under Medicaid should not be dismantled to "pay for" universal coverage. We must not allow the safety net infrastructure to be undermined. County hospitals and health systems, in particular, will continue to need extra

support to carry out their missions to reduce disparities and serve underserved populations.

Health Workforce:

NACo believes that the health professional and paraprofessional workforce must be supported and enhanced. Every effort should be made to recruit, train, license and retain health professionals, and allied professionals and paraprofessionals, on an expedited basis. A large body of evidence supports the contribution of direct care staff, nurses and nursing assistants, to quality outcomes. Funding for existing education and training programs – in secondary, post-secondary and vocational educational settings – should be increased and targeted towards initiatives to expand and diversify the health workforce. Partnerships between local economic developers and workforce development professionals should be encouraged to meet growing health care sector demand. Targeted incentives including scholarships, loan forgiveness and low-interest loan repayment programs should be developed to encourage more providers to enter and remain in primary care and public health careers. Primary care providers should be empowered to – and compensated for – case management services.

Health IT:

The federal government should support the integration of health information technologies into the local health care delivery system. NACo supports the President's goal of implementing a nation-wide system of electronic health records in five years. NACo supports efforts to promote the use of a range of information technologies to facilitate appropriate access to health records and improve the standard of care available to patients, while protecting privacy. This includes deployment of broadband technologies to the widest possible geographic footprint. Other tools facilitate evidence-based decision making and e-prescribing. Using broadband technologies, telemedicine applications enable real-time clinical care for geographically distant patients and providers. Remote monitoring can also facilitate post-operative care and chronic disease management without hospitalization or institutionalization.

Long Term Care:

Federal policies should encourage the elderly and disabled to receive the services they need in the least restrictive environment. Since counties provide and otherwise support long term care and other community based services for the elderly and disabled, state and federal regulations and funding programs should give them the flexibility to support the full continuum of home, community-based or institutional care for persons needing assistance with activities of daily living. Nursing home regulatory oversight should be reformed in order to foster more person-centered care environments..

Jail Health:

Reforming America's health care system must include reforms to its jail system. Counties are responsible for providing health care for incarcerated individuals as required by the U.S. Supreme Court in *Estelle v. Gamble*, 429 U.S. 97 (1976). This unfunded mandate constitutes a major portion of local jail operating costs and a huge burden on local property tax payers. The federal government should lift the unfunded mandate by restoring its obligation for health care coverage for eligible inmates, pre-conviction. Furthermore, a true national partnership is needed to divert the non-violent mentally ill from jail and into appropriate evidence-based treatment in community settings, if possible. Finally, resources should be made available to counties to implement timely, comprehensive reentry programs so that former inmates have access to all the health and social services, including behavioral health and substance abuse treatment, to avoid recidivism and become fully integrated into the community.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Urging Immediate Passage of Comprehensive Federal Health Reform Legislation

The Multnomah County Board of Commissioner Finds:

- a. Experts from across the political spectrum agree that America's health system is "broken" and unsustainable in its present configuration.
- b. Families in Multnomah County are experiencing this crisis right now, confronting the high cost of health care that threatens their financial stability, leaves them exposed to higher premiums and deductibles, and puts them at risk for a possible loss of health insurance.
- c. Employer-sponsored health insurance premiums have nearly doubled in recent years making it increasingly difficult for employers, including county governments, to provide health insurance coverage for their employees and retirees.
- d. Millions of Americans do not have health coverage, or have inadequate coverage and as our economic challenges multiply, the problem of health care access grows, further straining counties' capacity to provide care for the uninsured, under insured and medically indigent.
- e. 16.5% of adults in the county lacked health insurance in 2007 and the county's unemployment rate currently exceeds 11%, a growing proportion of county residents do not have access to affordable health care.
- f. County officials are elected to protect the health and welfare of their constituents.
- g. It cost the County \$61.5 million to meet health obligations in the community, including \$19 million for public health, \$14 million for indigent care, \$13 million for corrections health, \$1.5 million for local Medicaid match; and \$14 million for mental health and addiction obligations.
- h. The National Association of Counties (NACo) Health System Reform Working Group, appointed by President Don Stapley in July 2008 and chaired by President-Elect Valerie Brown, has held three regional hearings to explore the health crisis and to hear what county officials believe should be done about it and has summarized its findings in *Restoring the Partnership for American Health: Counties in a 21st Century Health System* which was approved and adopted by

resolution of the NACo Health Steering Committee and Board of Directors on March 9, 2009.

The Multnomah County Board of Commissioner Resolves:

1. To endorse NACo's health reform principles, as summarized in *Restoring the Partnership for American Health: Counties in a 21st Century Health System*; namely, that reform legislation should:
 - restore the partnership between county and federal governments;
 - provide access to affordable, quality health care to all;
 - invest in public health, including health promotion and disease and injury prevention;
 - stabilize and strengthen the local health care safety net system;
 - invest in the development of the health professional and paraprofessional workforce;
 - ensure that county health agencies have the resources to meaningfully use health information technology;
 - enable elderly and disabled persons to receive the services they need in the least restrictive environment; and
 - reform the delivery and financing of health services in the jail system.

2. The Board strongly urges the 111th Congress of the United States to enact comprehensive health reform legislation without delay before the end of its first session.

ADOPTED this 16th day of July, 2009.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

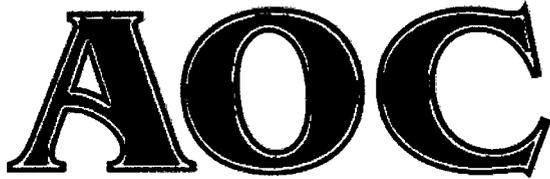
REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Agnes Sowle, County Attorney

SUBMITTED BY:

Lillian Shirley, Director, Multnomah County Health Department



Association of Oregon Counties

July 13, 2009

Dear Chair Wheeler and Multnomah County Board of Commissioners;

I appreciate your consideration of the National Association of Counties (NACo) "Resolution Urging Immediate Passage Of Comprehensive Federal Health Reform Legislation." It is important that Oregon Counties engage in the federal health care debate.

Many of the tenets in NACo's *Restoring the Partnership for American Health* policy paper are issues that Oregon counties are already engage in and struggling with how to provide services to members of our communities. Public health and wellness, maintaining a safety net, public health workforce, long-term care and jail health are all county issues. We will continue to have difficulty paying for these important services if we only look locally and to the state. We must also look to the federal government as our partner in these important services.

The Association of Oregon Counties has worked closely with NACo on many priorities in the past and this one, health care reform, will be one of the most important of recent years. AOC just recently posted the Model Resolution and Policy Paper on our Website and sent out the information to all 36 boards of county commissioners. We have already received many inquiries from counties across the state. We expect other boards of county commissioners to pass their own local resolutions in the up-coming weeks and months.

Thank you for leading the way in Oregon on this vital issue.

Sincerely,

Linda Modrell
AOC President
NACo Board of Directors member-elect

NOTE that cost containment is not mentioned in this, I believe this is critical to reform. Benton County will add that to our Resolution.

BOGSTAD Deborah L

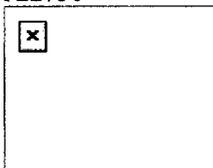
From: LENNON Karolin M
Sent: Wednesday, July 15, 2009 10:21 AM
To: ROCHE Hector R; KENNEDY-WONG Phillip; BOGSTAD Deborah L; KARNES Ana
Cc: SHIRLEY Lillian M
Subject: RE: Testimony

Hi Hector,

Yes, that is correct. Lillian does not want this attached to the resolution, but rather have it on record as Public Testimony from Herman Frankel. We did speak with Dr. Frankel and explained that the agenda was in place so would not be able to make additional time for his presentation but were very happy he called the Health Department and that he was most welcome to attend the meeting. Thank you for checking.

Karolin Lennon

Assistant to the Director
Multnomah County Health Department
x 22750



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

From: ROCHE Hector R
Sent: Wednesday, July 15, 2009 10:13 AM
To: KENNEDY-WONG Phillip; BOGSTAD Deborah L; KARNES Ana
Cc: LENNON Karolin M
Subject: RE: Testimony
Importance: High

I don't think Lillian wanted this attached to the resolution, but rather have it on record as Public Testimony from Herman Frankel. Karolin..please clarify!

When I spoke with him, he asked if he could be an invited guest to speak on the resolution and I told him that since this was a Health Department resolution he needed to check with Lillian as HD Director.

I also told him that I wasn't sure what the Health Department's stand is on a single payer system, and that he would more than likely be part of Public Comment. I told him the process of signing up when he arrives at Thursday's BCC meeting. He planned to send a copies of various of his previous letters to the editor, etc., to each of the commissioners as well as bring his statement to the BCC meeting.

Hector

Hector R. Roche

Community Liaison
Office of Chair Ted Wheeler
Multnomah County Oregon
501 SE Hawthorne Suite 600
Portland, OR 97214

7/15/2009

(503) 988-5772

...to create a world where people live in community with each other'

From: KENNEDY-WONG Phillip
Sent: Wednesday, July 15, 2009 10:04 AM
To: BOGSTAD Deborah L; KARNES Ana
Cc: ROCHE Hector R
Subject: Testimony
Importance: High

Can you include the attached for the BCC resolution from the Health Dept. on health care reform?
 Thanks.

Phillip Kennedy-Wong
 Government Relations Manager
 Multnomah County Oregon
 501 SE Hawthorne Blvd. Ste.600
 Portland, OR 97214
(503) 988-5895, office
 (503) 988-3093, fax
 (503) 830-4746, cell

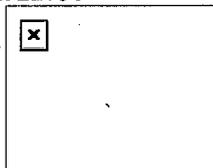
From: LENNON Karolin M
Sent: Wednesday, July 15, 2009 9:31 AM
To: ROCHE Hector R; KENNEDY-WONG Phillip
Cc: RINEHART Tom; SHIRLEY Lillian M
Subject: Equal Access to Quality Health Care is a Human Right, Not a Market Commodity
Importance: High

Hi Hector and Phillip,

Lillian requests that the attached request be part of the three-minute testimony on Thursday but states that it is not in the County's best interest to amend. Thank you.

Karolin Lennon

Assistant to the Director
 Multnomah County Health Department
 x 22750



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

From: frankelh@comcast.net [mailto:frankelh@comcast.net]
Sent: Wednesday, July 15, 2009 7:55 AM
To: ROCHE Hector R; District1; District2; District3; District4; LENNON Karolin M
Subject: Equal Access to Quality Health Care is a Human Right, Not a Market Commodity: A Call for Change

07/15/09 7:55am PDT

7/15/2009

From: Herman M. Frankel, M.D. (frankelh@comcast.net)

Attachment: <singlepayer256.pdf>

Subject: Equal Access to Quality Health Care is a Human Right, Not a Market Commodity: A Call for Change

To: hector.r.roche@co.multnomah.or.us (for transmission to Chair Wheeler, please)

To: district1@co.multnomah.or.us

To: district2@co.multnomah.or.us

To: district3@co.multnomah.or.us

To: district4@co.multnomah.or.us

To: karolin.m.lennon@co.multnomah.or.us (for sharing with Lillian Shirley, please)

Dear Chair Wheeler; Commissioners Kafoury, Cogen, Shiprack, and McKeel; and Ms. Shirley:

Grateful for your apparently tireless work to protect the well-being of everyone in Multnomah County, I'm attaching a copy of the testimony that I've prepared for the 07/16/09 public hearing regarding a "Resolution Urging Immediate Passage of Comprehensive Federal Health Reform Legislation." Mindful of the existing precedent of the Multnomah County Board of Commissioners amending a resolution at the time of a public meeting, in response to public testimony (1), I'm proposing a change in the resolution itself, and not only to the our current system of payment for medical care.

I'll be grateful, of course, for your comments.

1. See transcript of December 9, 2004 public meeting of the Multnomah County Board of Commissioners re Multnomah County Resolution No. 04-183 expressing commitment to protect civil rights in the era of the USA Patriot Act and asking Oregon's congressional delegation to oppose legislation that infringes upon those rights. <http://www.interculturalorganizing.org/report.pdf> , page 9

Warmly,

Herman

Herman M. Frankel, M.D.
The Portland Health Institute
3310 NW Savier Street, Suite A
Portland OR 97210-1937
503-227-1860

BOGSTAD Deborah L

From: Stephen Amy [luddite97202@yahoo.com]
Sent: Wednesday, July 15, 2009 12:03 PM
To: BOGSTAD Deborah L
Subject: 7/16/09 resolution

Dear County Clerk Bogstad,

I e-mailing to ask that the resolution that is up for vote on July 16th include the idea that a single-payer, government-provided health insurance is the only really feasible way to provide universal coverage at a cost savings.

Stephen Amy

BOGSTAD Deborah L

From: jimenitayo@gmail.com on behalf of Jimena Alvarado [jimenitayo@yahoo.com]

Sent: Wednesday, July 15, 2009 11:34 AM

To: BOGSTAD Deborah L

Subject: single payer in tomorrow's resolution

hello

I am a Portland resident and I'd like for the Board of commissioners to include a call for single payer health care in tomorrow's resolution. Single Payer health care is the only way to make sure nobody gets left out, and it's a great system that works wonderfully in other countries. we should be able to have decent access to care her etoo.

thank you

Jimena Avarado

BOGSTAD Deborah L.

From: Linda and Curt [mckimbells@comcast.net]
Sent: Wednesday, July 15, 2009 11:08 AM
To: BOGSTAD Deborah L
Subject: Support for the county resolution on a Single Payer Health Plan

Dear Ms. Bogstad,

I am retired. My wife and I had to pay about \$16,000 for health care related expenses last year and we were never even sick. The costs were for insurance, copays, pharmaceuticals, vision work, and dental work. God help us if either of us gets sick.

All the waste in for-profit medicine and for-profit medical insurance must be eliminated. Medicare for all is what is necessary.

Please urge the commissioners to support the resolution - for all of us.

Curtis Bell Ph.D.
1808 NW Aspen Ave.
Portland, OR 97210

BOGSTAD Deborah L

From: Jesus Rivas & Lucy Bernard [lololucy@spiritone.com]
Sent: Wednesday, July 15, 2009 8:59 PM
To: BOGSTAD Deborah L
Subject: call for single payer health care

Hi Deborah,
I would like to register my strong opinion that the county resolution you are passing tomorrow should call for single payer health care. There is no more sensible solution to our health care crisis.

Thank you,

Lucy Bernard
4054 NE Rodney Ave
Portland OR 97212

BOGSTAD Deborah L

From: Robin Bloomgarden [r.bloomgarden@gmail.com]
Sent: Wednesday, July 15, 2009 12:50 PM
To: BOGSTAD Deborah L
Subject: 7-16-09 Resolution

Dear County Clerk Bogstad,

Please recommend the Single-Payer Option for healthcare cover in the 7/16/09 Health Care resolution, tomorrow.

It is the only feasible option that works for Multnomah county!

Sincerely,
Robin Bloomgarden
2133 SE Tibbetts
Portland, Or 97212

7/15/2009

BOGSTAD Deborah L

From: Margaret Butler [margaret@jwjpdx.org]
Sent: Wednesday, July 15, 2009 5:48 PM
To: BOGSTAD Deborah L
Subject: input on County Health Care resolution

Dear County Commissioners,

I can't be there tomorrow morning when you discuss a resolution concerning health care reform, but I wanted to raise a few points. Our Portland Jobs with Justice health care committee has been working to build the movement for single payer as the solution to our broken system. For many years we, and I personally, thought that there were certain kinds of incremental reform which could move in the direction of a system that actually works. Now I am convinced, and so is our committee that we need to get the insurance companies out of the mix in order to create a system that is cost effective, universal, and equitable. Every incremental change that has been tried has failed because it has not taken on the role of the insurance companies. The majority of people in the country support single payer in many polls in spite of all the big money opposition. Every other industrialized country has better health outcomes and much lower costs because they either have a single payer system or a highly regulated, not-for-profit multi-payer system. We deserve better. National single payer would be a huge step in the direction of economic recovery at a time when people are losing their jobs and worrying most about having access to needed care. I urge you to join other local government bodies, over 34 state AFL-CIOs, and hundreds of local unions in supporting HR 676, John Conyers' single payer bill.

Sincerely,

Margaret Butler
Executive Director, Portland Jobs with Justice

7/16/2009

BOGSTAD Deborah L

From: SCHOLES Rhys
Sent: Wednesday, July 15, 2009 11:18 AM
To: BOGSTAD Deborah L
Subject: FW: [Justice] Opportunities to support Single Payer Health Care

FYI

Rhys Scholes
 Communication Policy Director
 Office of Multnomah County Chair Ted Wheeler
 503-988-5273

From: justice-bounces+rhys.scholes=co.multnomah.or.us@enabled.com [mailto:justice-bounces+rhys.scholes=co.multnomah.or.us@enabled.com] **On Behalf Of** Margaret Butler
Sent: Wednesday, July 15, 2009 11:30 AM
To: justice@jwjpdx.org
Subject: [Justice] Opportunities to support Single Payer Health Care

Dear friends, Herman Frankel from our health care committee asked that I let the whole justice list know about these opportunities to weigh in. In addition, don't forget about Sing Out for Single Payer, Saturday the 18th at 7:30 pm at SEIU 49, SE 26th and Powell, featuring Anne Feeney. Margaret

Please make use of at least two of these three opportunities to make a difference this week:

1. If you want to say to the Multnomah County Board of Commissioners something like "In the 07/16/09 resolution, I think it is important to call for a single-payer program of payment for medical care," PLEASE send an email message in your own words to County Clerk Deb Bogstad, at deborah.l.bogstad@co.multnomah.or.us . When? Preferably today; otherwise, any time before the public hearing begins at 9:30am Thursday 07/16/09, at 501 SE Hawthorne.
2. If you want to appear in person to let the Multnomah County Board of Commissioners know that you want the 07/16/09 resolution to call for a single-payer program of payment for medical care, PLEASE appear at 501 SE Hawthorne before the public hearing begins at 9:30am Thursday 07/16/09. In addition to attending, you can testify – even just one sentence, if you wish. Just fill out a yellow page (write "resolution") at the table near the doors, and give it to County Clerk Deb Bogstad. (You'll probably have no more than three minutes to talk, when your turn comes.) The meeting room holds more than 100 people, and the meeting will be covered by community television, newspapers, and radio and (probably) commercial television.
3. One of the letters supporting single payer that you send this week to The Oregonian (letters@news.oregonian.com, respectful, as short as one sentence or up to 150 words) can mention the County resolution, and go on to say what you want to say in your words. For each for the past four weeks, the tally box in The Sunday Oregonian reported that more letters were received about access to medical care than about any other topic. THIS IS IMPORTANT.

Let's keep organizing – and working together – so that everyone will have equal access to quality medical care through a national single payer program of payment for medical care. We know that this is only part of creating a society in which everyone has equal access to quality medical care, and to life-enhancing work, food, housing, education, recreation, environment, community, poetry, and flowers.

7/15/2009

Warmly, and in solidarity,

Herman

BOGSTAD Deborah L

From: Brent Carter [incandescent.dusk@yahoo.com]

Sent: Wednesday, July 15, 2009 2:10 PM

To: BOGSTAD Deborah L

Subject: Regarding the July 16th resolution

Dear Ms. Bogstad,

I'm writing to ask you to call for single-payer universal healthcare in the U.S. in the July 16th resolution. Please.

Thank you for your time and consideration,

Brent Carter
Portland, Oregon

7/15/2009

BOGSTAD Deborah L

From: James Ferner [vjday153@hotmail.com]

Sent: Wednesday, July 15, 2009 11:35 AM

To: BOGSTAD Deborah L

Subject: resolution

Deborah,

I support a resolution endorsing single payer health care. It is the most cost efficient, effective and honest method for health care in this country. Sixty people a day are dying because of no health care. The present system is unjust, immoral and needs to be restructured with the government paying all claims (single payer).

Thank you.

Jim Ferner

Insert movie times and more without leaving Hotmail®. [See how.](#)

BOGSTAD Deborah L

From: Robin Fox [rannfox@comcast.net]
Sent: Wednesday, July 15, 2009 7:19 PM
To: BOGSTAD Deborah L
Subject: Health Reform Resolution: Please call for single payer

To the Commissioners,

I understand that you will discuss a call for federal health care legislation tomorrow morning. Please call for a single-payer system! Insurance companies should play no role in the funding of health services, since it is in their interest to deny care. Even if single-payer cannot pass this year, calling for it strengthens the demand for a viable public option and creates momentum for passing single-payer in the future.

Sincerely,
Robin Fox

BOGSTAD Deborah L

From: Paul Gorman [gormanp@comcast.net]
Sent: Wednesday, July 15, 2009 10:38 PM
To: BOGSTAD Deborah L
Cc: peter mahr; Herman Frankel
Subject: single payer resolution

Dear County Clerk Deb Bogstad

As a concerned citizen, I am sure you understand the severity of our health insurance crisis, and why the majority of Americans support a publicly funded program that ensures healthcare for everyone. One way to help the leadership in Washington get the message that a Single Payer national health program is the only true solution to this health insurance crisis is for local governments to take action. Attached is a copy of a resolution which will soon be introduced into the Portland City Council. Please stand up for affordable health care for every American and support this resolution when it comes to a vote.

best regards
Paul Gorman, MD
member of Portland area Physicians for a National Health Program.

**Single Payer:
The affordable public option.**

7/16/2009

BOGSTAD Deborah L

From: Ann Huntwork [ann@solh-salaam.com]
Sent: Wednesday, July 15, 2009 5:20 PM
To: BOGSTAD Deborah L
Subject: health care

Dear Deborah,

I am a retired medical social worker with quite a number of years working in low cost clinics, hospitals and a hospice facility.

It has been a source of sadness for me when I think of the number of times I have had to scrounge and beg for medical care. There was a time when I worked in a low income clinic where we advised poor pregnant women to sit in a hospital parking lot until their contractions were 5 minutes apart and then to enter the ER where they had to be taken care of. This is NO way to provide health care!

I do truly hope you will help provide a better way for our citizens. Thanks for your attention to this important public issue.

Sincerely, Ann Huntwork

BOGSTAD Deborah L

From: Aliza Keddem [alizak@pacifier.com]
Sent: Wednesday, July 15, 2009 5:57 PM
To: BOGSTAD Deborah L
Subject: Support single payer health care

Dear Commissioner Bogstad,

I strongly urge you to lend your support to a single payer health care program. It is the only sane solution to our very messy, costly, and inhumane existing system. Please help us get rid of it and make our nation a healthier and more humane one.

Respectfully,
Aliza Keddem
36 NE 76 Avenue
Portland, OR 97213
503 257 1885

7/16/2009

BOGSTAD Deborah L

From: rekenny@comcast.net
Sent: Wednesday, July 15, 2009 3:50 PM
To: BOGSTAD Deborah L
Subject: healthcare resolution

The resolution as it is worded now is simplistic and meaningless; sort of like an 18yr old at a beauty pagaent calling for world peace. The only resolution worth passing would be one in support of single-payer health care such as that proposed by Rep. John Conyers or Sen. Bernie Sanders. In poll after poll the majority of Americans have called for healthcare like that enjoyed by the rest of the industrialized world. This means the majority of doctors, the National Council of Mayors, the majority of Oregonians, the Oregon State AFL-CIO....and on and on. Our elected leaders in D.C. don't seem to grasp the fact that America wants true reform, not the hodge podge patch on a failed system that seems to be emerging. I urge the county commission to join hundreds of other state, county and city governments that have already passed resolutions in support of single-payer healthcare.

Sincerely,
Ray Kenny
240 Greenridge Dr
Lake Oswego

7/15/2009

BOGSTAD Deborah L

From: lienjud@aol.com
Sent: Wednesday, July 15, 2009 12:51 PM
To: BOGSTAD Deborah L
Subject: 7/16/09 resolution

Dear Ms Bogstad:

As a voting citizen, I am requesting that the July 16 resolution contain the demand for single payer system for medical care. thanks you,

Judith Lienhard

Performance you need and the value you want! Check out great laptop deals from Dell!

BOGSTAD Deborah L

From: Sarah K. Loose [sarahloose@gmail.com]

Sent: Wednesday, July 15, 2009 11:29 AM

To: BOGSTAD Deborah L

Subject: Single Payer Healthcare

Dear Multnomah County Board of Commissioners,

I urge you to please include in your 7/19/09 resolution a statement supporting a national single-payer healthcare payment plan. Access to health care is a basic human right and a single payer plan is the best way to assure affordable, quality, universal coverage for all.

Best,
Sarah

Sarah K. Loose
427 NE Monroe St.
Portland, OR 97212

7/15/2009

BOGSTAD Deborah L

From: OLISMARG@aol.com
Sent: Wednesday, July 15, 2009 11:47 AM
To: BOGSTAD Deborah L
Subject: (no subject)

Dear Commissioners,

In the 07/16/09 resolution, I think it is critical to call for a single-payer program of payment for medical care that will provide quality and affordable health care for everyone and leave no one out. Thank you for your consideration.

Greg Margolis

Performance you need and the value you want! Check out great laptop deals from Dell!

BOGSTAD Deborah L

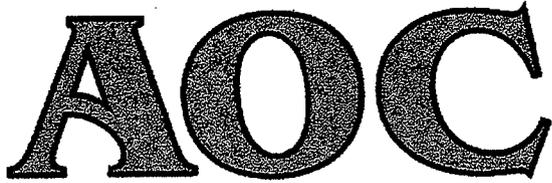
From: laurie.mercier@comcast.net
Sent: Wednesday, July 15, 2009 4:57 PM
To: BOGSTAD Deborah L
Subject: resolution on single payer

Dear Commissioners,

Please support the 7-16 resolution advocating a single-payer system of health care. This is clearly what the vast majority of Americans and residents of Multnomah county desire. It will be less expensive in the long run as well as providing necessary care for all of our citizens.

Thanks,

Laurie Mercier
9610 SW 3rd Ave
Portland 97219



Association of Oregon Counties

July 13, 2009

Dear Chair Wheeler and Multnomah County Board of Commissioners;

I appreciate your consideration of the National Association of Counties (NACo) "Resolution Urging Immediate Passage Of Comprehensive Federal Health Reform Legislation." It is important that Oregon Counties engage in the federal health care debate.

Many of the tenets in NACo's *Restoring the Partnership for American Health* policy paper are issues that Oregon counties are already engage in and struggling with how to provide services to members of our communities. Public health and wellness, maintaining a safety net, public health workforce, long-term care and jail health are all county issues. We will continue to have difficulty paying for these important services if we only look locally and to the state. We must also look to the federal government as our partner in these important services.

The Association of Oregon Counties has worked closely with NACo on many priorities in the past and this one, health care reform, will be one of the most important of recent years. AOC just recently posted the Model Resolution and Policy Paper on our Website and sent out the information to all 36 boards of county commissioners. We have already received many inquiries from counties across the state. We expect other boards of county commissioners to pass their own local resolutions in the up-coming weeks and months.

Thank you for leading the way in Oregon on this vital issue.

Sincerely,

Linda Modrell
AOC President
NACo Board of Directors member-elect

NOTE that cost containment is not mentioned in this, I believe this is critical to reform. Benton County will add that to our Resolution.

BOGSTAD Deborah L

From: Alice Muccio [muccigrosso2000@yahoo.com]

Sent: Wednesday, July 15, 2009 1:06 PM

To: BOGSTAD Deborah L

Subject: 7/16/09 resolution

I think it is important, in the 7/16/09 resolution , to call for a single payer system of payment for healthcare. It is the only way to make healthcare affordable and accessible to all. Lets join Canada and the other industrialized countries of the world in supporting people in need of healthcare, not people wanting to make billions on it via the insurance industry. It's time to put a stop to greed and help those in need.

Thank you,
Alice Muccio, RN
1245 SE 53rd Ave
Portland Oregon 97215
(503) 235-9800

BOGSTAD Deborah L

From: Carol Routh [carol@hevanet.com]
Sent: Wednesday, July 15, 2009 11:57 AM
To: BOGSTAD Deborah L
Subject: Single Payer Health Care

To the Multnomah County Board of Commissioners:

It's tragic and humiliating that, of all the developed countries, the US is the only one where adequate health care is a luxury for the wealthy or well-employed.

To truly have the health care we deserve and PAY FOR, we must get the profit-taking out of the health care system. Only a part of our expenditures go to actual health CARE; the rest is big profits for the medical industrial complex.

Medicare WORKS. Without the profits, it's also affordable.

Let's study what works in all the countries with universal health care, and build upon that.

Carol Routh
1440 SW Hilldale
Portland OR 97225

BOGSTAD Deborah L

From: Linda Scher [Linda@Schermediate.com]
Sent: Wednesday, July 15, 2009 11:14 AM
To: BOGSTAD Deborah L
Subject: Resolution to support a single-payer medical program

Dear Multnomah County Commissioners,

*I applaud you in considering, on July 16th, the resolution to call on Congress to pass a single-payer medical care program. **I am writing to urge you to pass this resolution.** It is the best form of health care reform we have available, and it may be our only chance to do it right.*

Every public expression of support, not matter how local, will give our voices that much more volume in letting Washington DC know of our desires. Thank you for your time and valuable work.

Sincerely,

*Linda Scher
9564 SE Tenino Court
Portland, OR 97266
503-232-8550*

7/15/2009

BOGSTAD Deborah L

From: betsy@vpservices.com
Sent: Wednesday, July 15, 2009 12:23 PM
To: BOGSTAD Deborah L
Cc: betsy@vpservices.com
Subject: health care resolution - support Single Payer!

To the Multnomah County Board of Commissioners:

As a resident, a tax payer, a parent, and a health care professional, I am pleased to hear that Multnomah County is considering a resolution in support of health care reform.

I urge you to support Single Payer federal healthcare reform: everyone in, nobody out, publicly funded, privately provided healthcare.

Single Payer is the most cost-effective way to provide healthcare (not insurance) for all Americans. All other industrialized countries provide healthcare to all, for a fraction of the cost we pay for care here. We Americans pay more, and get less, than citizens of other countries because our system is built on profit-making private insurance - with its bloated budgets for administration, marketing, CEO salaries, and profits for shareholders.

Studies have shown over and over that local governments would benefit from a coordinated federal single payer plan. Because of this, dozens of cities(including Seattle), counties and states across the country have passed resolutions in support of HR 676. Over 500 unions, the Oregon Nurses Association, the majority of the public, and the majority of physicians, as well as the US Conference of Mayors, all support single payer. Amnesty International USA has stated that single payer healthcare has the best chance of actualizing healthcare as a human right.

As our Commissioners are so well aware, health care takes a big cut of the County budget - both to provide insurance for employees, and healthcare services for our most vulnerable citizens. Under Single Payer (HR 676 or SB 703), federal funding would eliminate the need for

**Multnomah County
to separately fund health insurance for employees and retirees, and for the health
services provided
by the County.**

**Please pass a resolution in support of Single Payer, to put teeth in the resolution in
support of
healthcare reform.**

Respectfully,

**Betsy L. Zucker, RN, FNP
1415 SE 52nd Ave,
Portland, Oregon 97215
betsy@vpservices.com**

#1

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk
This form is a public record

MEETING DATE: 07/16/09

SUBJECT: Health Care Resolution

AGENDA NUMBER OR TOPIC: R-2

FOR: X AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Herman M. Frankel, MD

ADDRESS: 3310 NW Savier St.

CITY/STATE/ZIP: Portland, OR 97210-1937

PHONE: DAYS: 503-227-1860 EVES: 503-227-4892

EMAIL: frankel/h@comcast.net FAX: _____

SPECIFIC ISSUE: Proposed amendment to add "Single payer system of payment for medical care"

WRITTEN TESTIMONY: attached

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

Equal Access to Quality Health Care is a Human Right, Not a Market Commodity:
A Call for Change

Chair Wheeler, Commissioner Kafoury, Commissioner Cogen, Commissioner Shiprack,
and Commissioner McKeel:

Thank you for giving all of us this opportunity to fulfill our obligation to exercise our First Amendment right to speak freely and publicly to you, our government, and to the members of our community.

I think that all of us here, and the people of Multnomah County, share the goal of providing everyone with equal access to quality health care. I think that we share a commitment to reaching this goal.

Five months ago, I began a series of meetings with each of you or with members of your staffs to discuss a draft of A RESOLUTION relating to support for HR 676: the "United States National Health Insurance Act (or the Expanded and Improved Medicare for All Act)." For each of the past four weeks, the most popular topic of letters to the editor of The Oregonian has been lack of equal access to quality medical care.

What stands in the way of achieving this goal?

On March 5, 2009, in his opening comments at the White House Forum on health reform, President Barack Obama said this:

"Our inability to reform health care in the past is just one example of how special interests have had their way, and the public interest has fallen by the wayside."
http://www.whitehouse.gov/assets/documents/White_House_Forum_on_Health_Reform_Report.pdf

This is precisely what stands in the way. We cannot afford to provide quality medical care to everyone as long as private insurance companies are involved. Why?

Because when private insurance companies compete in the marketplace, they use part of each health care dollar for deceptive marketing practices (2), advertising, public relations, lobbying, campaign contributions, and, in the case of for-profit corporations, dividends to investors. In addition, the billions of dollars of known annual medical insurance company fraud cited by the Senate Commerce Committee staff in its 06/24/09 report (3) and by Senator Bernie Sanders before the Senate Health Committee on 06/25/09 (4) demonstrate the industry's passionate commitment to its own bottom line rather than to the well-being of real people. Further, with private insurers standing as barriers between patients and physicians, our medical care dollars have to pay the costs incurred by every medical office, nursing home, and hospital for preparing, submitting, and repeatedly resubmitting individual billings to many different insurance companies for needed medical services.

Access to quality medical care is a human right that belongs equally to everyone (5). We cannot allow it to continue being a commodity to be sold in the marketplace (6). What is the solution?

Barack Obama was applauded at the 2003 AFL-CIO Civil, Human and Women's Rights Conference for saying "I happen to be a proponent of a universal single-payer health care plan." <http://www.youtube.com/watch?v=fpAyan1fXCE>

A majority of Americans favors providing all Americans with equal access to quality medical care through a national single payer program of payment for medical care. Single payer medical care (H.R. 676, with 85 co-sponsors in the 111th Congress) has been endorsed by the US Conference of Mayors, a nonpartisan organization of approximately 1100 mayors representing cities with populations of 30,000 or more; by the AFL-CIO of Oregon, 38 other state AFL-CIO's, and more than 475 other union organizations including more than 20 in Oregon; the Oregon Education Association; Oregon affiliate of the American Federation of Teachers; Oregon Academy of Family Practice; and more than 40 city, county, and state governments. Single payer medical care has been endorsed by the Oregon Nurses Association, and is favored by 59 percent of practicing physicians nationwide.

This is the solution. Let's work together for single-payer. Let's amend this resolution now, during this public meeting - in accordance with the existing precedent of the Multnomah County Board of Commissioners amending a resolution at the time of a public meeting, in response to public testimony (7) -- so that it calls upon our lawmakers in Washington to enact a national single payer program of payment for medical care.

Thank you for inviting us to function as responsible citizens in a democracy!

Documentation of numbered citations:

1. US Constitution, First Amendment (12/15/1791). Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. <http://www.usconstitution.net/const.html#Am1>
2. Reed Abelson. Many with insurance still bankrupted by Health Crises. NY Times 06/30/09. <http://www.nytimes.com/2009/07/01/business/01meddebt.html?hp>
See, also, video and transcript of interview with former Cigna Vice President Wendall Potter on Bill Moyers Journal, at <http://www.pbs.org/moyers/journal/07102009/watch.html>
3. David S. Hilzenrath. Senate panel hears of health insurers' wrongs. Washington Post 06/25/09. Account of the 0/24/09 report of the Senate Health Committee staff. <http://www.washingtonpost.com/wp-dyn/content/article/2009/06/24/AR2009062401636.html> (See, also, http://www.nytimes.com/2009/01/13/health/policy/13care.html?_r=1&hp, which includes the paragraphs copied below.)
The settlement will have a nationwide impact because UnitedHealth, the biggest health insurer in New York, operates the databases used by the entire industry, through its Ingenix business unit. . .
Because insurers typically reimburse patients for only 70 to 80 percent of the "reasonable and customary" cost of medical services when they visit doctors outside the insurer's designated network of physicians, the patient can get shortchanged if the

insurer understates the prevailing local fees.

The patient might receive a doctor's bill for \$100, for example, and expect the insurer to pay at least \$70. But if the insurance database says that doctor bill should have been only \$72, based on local rates, the patient might get back less than \$55.

According to Mr. Cuomo, the databases consistently understated the local "reasonable and customary" rates, which Ingenix collects from insurers. The report of the investigation's findings described the industry calculations as "created in a well of conflicts" that produced information that was "unreliable, inadequate and wrong."

In an interview Monday, Mr. Cuomo said: "For years this database was treated as credible and authoritative, and consumers were left to accept its rates without question. This is like pulling back the curtain on the wizard of Oz. We have now shown that for years consumers were consistently low-balled to the tune of hundreds of millions of dollars."

4. Sen. Bernie Sanders: Stop Health Care Industry Fraud. Testimony before the Senate Health Committee on 06/25/09.

<http://www.sanders.senate.gov/news/record.cfm?id=315056>

(See, also, <http://www.sanders.senate.gov/news/record.cfm?id=314572>.)

Examples from document 315056:

Health and Human Services Department investigators found this year (2009) that 80 percent of insurance companies participating in the Medicare prescription drug benefit overcharged subscribers and taxpayers by an estimated \$4.4 billion. Altogether, as Senator Sanders testified, Medicare and Medicaid fraud totals some \$60 billion a year.

In 2009, UnitedHealth, a leading insurance company, paid \$350 million to settle lawsuits brought by the American Medical Association and other physician groups for shortchanging consumers and physicians for medical services outside its preferred network.

In 2009, the Centers for Medicare & Medicaid Services barred WellPoint, a major insurance company, from participating in Medicare Part D because WellPoint has "demonstrated a longstanding and persistent failure to comply with CMS's requirements for proper administration..."

5. UN Universal Declaration of Human Rights, Article 25.

<http://www.un.org/en/documents/udhr/index.shtml#a21>

6. See text and video at <http://www.pbs.org/moyers/journal/index-flash.html> for July 10, 2009

7. See transcript of December 9, 2004 public meeting of the Multnomah County Board of Commissioners re Multnomah County Resolution No. 04-183 expressing commitment to protect civil rights in the era of the USA Patriot Act and asking Oregon's congressional delegation to oppose legislation that infringes upon those rights.

<http://www.interculturalorganizing.org/report.pdf>, page 9

Documentation of majority public support for a national single payer program of payment for medical care:

The September 2007 CBS News poll reported that 55 percent of Americans “think having one health insurance program covering all Americans that would be administered by the government and paid for by taxpayers” “would be better for the country” than “keeping the current system where many people get their insurance from private employers and some have no insurance.” <http://www.pollingreport.com/health.htm>, P. 1

The October 2007 Gallup poll reported that 54 percent of Americans favor “establishing a national healthcare system funded by the government, similar to the ones in Canada and Europe.”
<http://www.gallup.com/poll/102349/Any-Healthcare-Reform-Plan-Will-Americans.aspx>

The December 2007 Associated Press/Yahoo poll reported that 65 percent of Americans believe that “the United States should adopt a universal health insurance program in which everyone is covered under a program like Medicare that is run by the government and financed by taxpayers.”
<http://l.yimg.com/us.yimg.com/i/us/nws/elections/2008/yahoo2topline.pdf>, Page 15

The January 2009 CBS News/New York Times Poll reported that 59% of Americans (up from 40% in 1979) said that “the government in Washington should provide national health insurance,” and that this is not “something that should be left to private enterprise.” <http://www.pollingreport.com/health.htm>, Page 1

Single payer medical care (H.R. 676, with 85 co-sponsors in the 111th Congress) has been endorsed by the US Conference of Mayors, a nonpartisan organization of approximately 1100 mayors representing cities with populations of 30,000 or more; by the AFL-CIO of Oregon, 38 other state AFL-CIO’s, and more than 475 other union organizations including more than 20 in Oregon; and more than 40 city, county, and state governments, including Coos and Curry Counties in Oregon. Single payer medical care has been endorsed by the Oregon Nurses Association, the Oregon Academy of Family Practice, the Oregon Education Association, and the Oregon affiliate of the American Federation of Teachers; and is favored by 59 percent of practicing physicians nationwide.

Documentation of support by US Conference of Mayors; unions and union organizations; city, county, and state governments; and physicians:

http://www.usmayors.org/resolutions/76th_conference/chhs_03.asp

http://unionsforsinglepayerHR676.org/union_endorsers

<http://unionsforsinglepayerHR676.org/more>

Carroll AE, Ackerman RT. *Ann Int Med* 148(7):566-7 1 Apr 2008

#2

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 16 July 2009

SUBJECT: Quality Health Care Access

AGENDA NUMBER OR TOPIC: - Public Comment

FOR: AGAINST: THE ABOVE AGENDA ITEM

NAME: Nancy Crumpacker, MD

ADDRESS: 2351 NW Westover Rd, #701

CITY/STATE/ZIP: Portland OR 97210

PHONE: DAYS: 503-292-1035 EVES: Same

EMAIL: nancycrumpacker@comcast.net FAX: _____

SPECIFIC ISSUE: I support a resolution that states that single payer health care is the only true reform.

WRITTEN TESTIMONY:

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

Nancy Crumpacker, MD
2351 NW Westover Road, #701
Portland, Oregon, 97210

Re: universal health care resolution

July 16, 2009

Chairman Wheeler and fellow Commissioners

Thank you for the opportunity to speak today.

I applaud your support for guaranteed access to quality health care for all US citizens through pressure on the US Congress.

As a physician for over 30 years, I have witnessed the tragic outcomes of decisions by the health care industry.

Many polls show that a majority of US citizens and physicians favor a single payer system like most developed nations offer. But this concept has disappeared from the discussions in Washington D.C. The current talks include retaining private health insurance resulting in no method to control rising costs and no mention of the failures that have occurred in Massachusetts and Oregon (our Oregon Health Plan).

Single-payer health care relies on the elimination of private insurance, which results in administrative savings and cost control mechanisms to provide sustainable coverage. Like Medicare, single-payer health care is private medicine - not socialized medicine. In Medicare, 97 percent of funding pays for patient care instead of 70-80 percent in private insurance. The bill in Congress that would accomplish this is HR 676, *United States National Health Care Act*, sponsored by Representative John Conyers.

Those in Washington, D.C., say that single payer is not feasible. Of course, health insurers, pharmaceutical companies, and hospitals contribute to many Congressional campaigns and fund a well-paid cadre of lobbyists. Their propaganda machine tells citizens with employee benefits, "at least your family is covered", but the reality is employees have no job or health care security. The only Americans with guaranteed health insurance are those on Medicare, a version of single-payer.

We will achieve the right to health care in America only by eliminating private insurance and establishing single-payer national health care.

I urge the commission amend the resolution to state that single payer health care is the only mechanism to achieve our goal of universal access to quality care.

Nancy Crumpacker, MD

#3

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk
This form is a public record

MEETING DATE: 7-16-09

SUBJECT: Health Care

AGENDA NUMBER OR TOPIC: 2 Health Care Resolution

FOR: _____ AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Eliana Machuca

ADDRESS: 309 NE Dekum

CITY/STATE/ZIP: Portland Or 97211

PHONE: DAYS: 503-236-5573 EVES: 503-703-1407

EMAIL: eliana@jwpcbr.org FAX: _____

SPECIFIC ISSUE: Single Payer

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#4

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: July 16, 2009

SUBJECT: Health Care Reform Resolution

AGENDA NUMBER OR TOPIC: R-2

FOR: _____ AGAINST: _____ THE ABOVE AGENDA ITEM *Not sure - for modification*

NAME: Christopher Lowe

ADDRESS: 7314 SE 39th Avenue/Cesar Chavez Blvd.

CITY/STATE/ZIP: Portland OR 97202

PHONE: DAYS: 503 788 2343 EVES: same

EMAIL: clowe@igc.org FAX: _____

SPECIFIC ISSUE: Not clear from agenda wording of resolution, appears vague. a single payer reform is needed

WRITTEN TESTIMONY: Please support a single payer approach to health care reform. It is the only approach that is health realistic and economically realistic

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#5
MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 7/16/09

SUBJECT: Health Care Resolution

AGENDA NUMBER OR TOPIC: _____

FOR: X AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Eugene J. Uphoff, MD

ADDRESS: 2698 NE Stuart Drive

CITY/STATE/ZIP: Portland, OR 97212

PHONE: _____

DAYS: 503-284-9149

EVES: 503-284-9149

EMAIL: geneuphoff@msn.com

FAX: _____

SPECIFIC ISSUE: Resolution support of single payer care

WRITTEN TESTIMONY: yes -

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

Testimony by Eugene J. Uphoff, M.D. before Multnomah County Board of Commissioners on 07/16/09
Chair Weaver, Commissioner Kafoury, Commissioner Cogen
Commissioner Shiprack, and Commissioner McKeel:

Thank you for allowing me to address my concerns to you this morning on behalf of citizens of Multnomah County and Americans everywhere. I have been a family physician for 40 years. During that time I have worked in the Denver Department of Health and Hospitals as a salaried physician in a community health clinic; at Cascade Health Care – an HMO serving a mixed blend of public/private care patients; and for 28 years in a private family practice group in Portland. The crisis in health care is spoken to by one of every seven people who have no insurance whatsoever and by millions more whose insurance provides only partial coverage with exorbitant premiums and huge out-of-pocket expense. In ten years from 1998 to 2008 Americans saw their wages increase 29% while inflation went up 44%. But that pales in comparison to the increase in out of pocket medical costs that rose 115% and health insurance premiums rising 120% in the same period. We cannot sustain this. Medical costs cause or contribute to more than half of all bankruptcies in America – even for people who thought they were insured against medical catastrophe.

With many proposals now being promoted as solutions to this crisis, I am here to state without question that the only reform that successfully addresses the problem is to enact a program of universal, single payer, not-for-profit health insurance – basically expanded Medicare for All. Such a proposal is now before Congress in the form of House Bill HR 676 and a comparable bill in the Senate, S 703

By adopting a Single Payer system of health reform we can assure that:

- 1.) We have Universal coverage - everyone is automatically enrolled
whereas the Private Insurance Plans exclude the poor, the sick, the disadvantaged and the unemployed.

By adopting a Single Payer system of health reform we can assure that:

- 2.) Access to care is fair and equitable - everyone is entitled to first rate care
whereas the Private Insurance Plans allocate of health care based on ability to purchase insurance or afford out of pocket expenses.

By adopting a Single Payer system of health reform we can assure that:

- 3.) The health financing is economically sound - elimination of the 30% overhead of private insurance could generate \$400 billion per year and provide care for all.
whereas the Private Insurance Plans are economically unsustainable because they waste money on deceptive marketing practices, advertising, public relations, lobbying, campaign contributions, and dividends to investors

By adopting a Single Payer system of health reform we can assure that:

- 4.) People will have greater choice of doctors and hospitals - everyone participates
whereas with the Private Insurance Plans your choice of doctor is limited to physicians on the Insurance Company "panel" and your doctor must apply for permission for many referrals and treatment choices.

By adopting a Single Payer system of health reform we can assure that:

- 5.) There is thoughtful use of medical resources - Care is based on medical need
whereas the Private Insurance Plans waste premium dollars - 31% goes to useless marketing, underwriting, and profit, as well as extraordinary CEO salaries.

By adopting a Single Payer system of health reform we can assure that:

- 6.) Everyone will get comprehensive coverage – including doctors fees, hospitals, drugs, rehab, etc.
whereas the Private Insurance Plans restrict benefits, raise co-pays, increase deductibles, cancel coverage, deny referrals and needed treatments in order to make a profit

In 2005 members of Congress and President Bush flew to Washington to pass and sign legislation that would require doctors to reinsert a feeding tube in Terri Shiavo in order to prolong her life. You will remember that she had been the subject of a prolonged legal debate over the wisdom of continuing her on life support after 15 years in a persistent vegetative state. The following Tuesday an elder patient of mine asked me, all aglow, "Wasn't it wonderful what our President and Congress did this weekend to try to save the life of that poor woman?" Sadly I had to tell him that it would have been much more wonderful if they'd flown back to Washington to pass health care legislation that would cover everyone because there were 18,000 people who died that year due to lack of health insurance

Written
only
DEB READ

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 7/16/09
SUBJECT: Health Care Reform

AGENDA NUMBER OR TOPIC: R2

FOR: AGAINST: _____ THE ABOVE AGENDA ITEM
NAME: Marian Kear

ADDRESS: 1018 SE 15th ave

CITY/STATE/ZIP: Portland 97214

PHONE: DAYS: 503-234-0341 EVES: 503-234-0341

EMAIL: kearm@spiritone.com FAX: _____

SPECIFIC ISSUE: Supporting public health

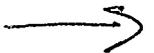
WRITTEN TESTIMONY: I think that we are fortunate to have an outstanding County Health Dept, (our County taking the lead to address health disparity issues is just one example). With any health care reform, - at the state or federal level, - my hope is

IF YOU WISH TO ADDRESS THE BOARD:

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2. Written testimony will be entered into the official record.



That the Multnomah Co. Commissioners can continue to be strong advocates for public health and for the full integration of public health into a reformed health care system.

Sincerely,
Mallen Kear

resolution of the NACo Health Steering Committee and Board of Directors on March 9, 2009.

The Multnomah County Board of Commissioner Resolves:

1. To endorse NACo's health reform principles, as summarized in *Restoring the Partnership for American Health: Counties in a 21st Century Health System*; namely, that reform legislation should:
 - restore the partnership between county and federal governments;
 - provide access to affordable, quality health care to all;
 - invest in public health, including health promotion and disease and injury prevention;
 - stabilize and strengthen the local health care safety net system;
 - invest in the development of the health professional and paraprofessional workforce;
 - ensure that county health agencies have the resources to meaningfully use health information technology;
 - enable elderly and disabled persons to receive the services they need in the least restrictive environment; and
 - reform the delivery and financing of health services in the jail system.
2. The Board strongly urges the 111th Congress of the United States to enact comprehensive health reform legislation without delay before the end of its first session.

ADOPTED this 16th day of July, 2009.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Agnes Sowle, County Attorney

The Board believes that a single payer system would provide the best access to affordable health care for all Americans.

SUBMITTED BY:

Lillian Shirley, Director, Multnomah County Health Department

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Urging Immediate Passage of Comprehensive Federal Health Reform Legislation

The Multnomah County Board of Commissioner Finds:

- a. Experts from across the political spectrum agree that America's health system is "broken" and unsustainable in its present configuration.
- b. Families in Multnomah County are experiencing this crisis right now, confronting the high cost of health care that threatens their financial stability, leaves them exposed to higher premiums and deductibles, and puts them at risk for a possible loss of health insurance.
- c. Employer-sponsored health insurance premiums have nearly doubled in recent years making it increasingly difficult for employers, including county governments, to provide health insurance coverage for their employees and retirees.
- d. Millions of Americans do not have health coverage, or have inadequate coverage and as our economic challenges multiply, the problem of health care access grows, further straining counties' capacity to provide care for the uninsured, under insured and medically indigent.
- e. 16.5% of adults in the county lacked health insurance in 2007 and the county's unemployment rate currently exceeds 11%, a growing proportion of county residents do not have access to affordable health care.
- f. County officials are elected to protect the health and welfare of their constituents.
- g. It cost the County \$61.5 million to meet health obligations in the community, including \$19 million for public health, \$14 million for indigent care, \$13 million for corrections health, \$1.5 million for local Medicaid match; and \$14 million for mental health and addiction obligations.
- h. The National Association of Counties (NACo) Health System Reform Working Group, appointed by President Don Stapley in July 2008 and chaired by President-Elect Valerie Brown, has held three regional hearings to explore the health crisis and to hear what county officials believe should be done about it and has summarized its findings in *Restoring the Partnership for American Health: Counties in a 21st Century Health System* which was approved and adopted by

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 09-098

Urging Immediate Passage of Comprehensive Federal Health Reform Legislation

The Multnomah County Board of Commissioner Finds:

- a. Experts from across the political spectrum agree that America's health system is "broken" and unsustainable in its present configuration.
- b. Families in Multnomah County are experiencing this crisis right now, confronting the high cost of health care that threatens their financial stability, leaves them exposed to higher premiums and deductibles, and puts them at risk for a possible loss of health insurance.
- c. Employer-sponsored health insurance premiums have nearly doubled in recent years making it increasingly difficult for employers, including county governments, to provide health insurance coverage for their employees and retirees.
- d. Millions of Americans do not have health coverage, or have inadequate coverage and as our economic challenges multiply, the problem of health care access grows, further straining counties' capacity to provide care for the uninsured, under insured and medically indigent.
- e. 16.5% of adults in the county lacked health insurance in 2007 and the county's unemployment rate currently exceeds 11%, a growing proportion of county residents do not have access to affordable health care.
- f. County officials are elected to protect the health and welfare of their constituents.
- g. It cost the County \$61.5 million to meet health obligations in the community, including \$19 million for public health, \$14 million for indigent care, \$13 million for corrections health, \$1.5 million for local Medicaid match; and \$14 million for mental health and addiction obligations.
- h. The National Association of Counties (NACo) Health System Reform Working Group, appointed by President Don Stapley in July 2008 and chaired by President-Elect Valerie Brown, has held three regional hearings to explore the health crisis and to hear what county officials believe should be done about it and has summarized its findings in *Restoring the Partnership for American Health: Counties in a 21st Century Health System* which was approved and adopted by resolution of the NACo Health Steering Committee and Board of Directors on March 9, 2009.

The Multnomah County Board of Commissioner Resolves:

1. To endorse NACo's health reform principles, as summarized in *Restoring the Partnership for American Health: Counties in a 21st Century Health System*; namely, that reform legislation should:
 - restore the partnership between county and federal governments;
 - provide access to affordable, quality health care to all;
 - invest in public health, including health promotion and disease and injury prevention;
 - stabilize and strengthen the local health care safety net system;
 - invest in the development of the health professional and paraprofessional workforce;
 - ensure that county health agencies have the resources to meaningfully use health information technology;
 - enable elderly and disabled persons to receive the services they need in the least restrictive environment; and
 - reform the delivery and financing of health services in the jail system.

2. The Board believes that a single payer system would provide the best access to affordable health care for all Americans.

3. The Board strongly urges the 111th Congress of the United States to enact comprehensive health reform legislation without delay before the end of its first session.

ADOPTED this 16th day of July, 2009.

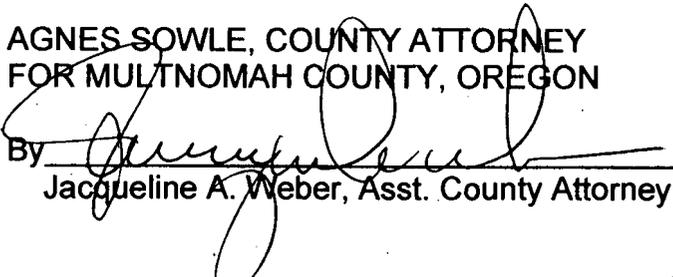


BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Jacqueline A. Weber, Asst. County Attorney

SUBMITTED BY:

Lillian Shirley, Director, Multnomah County Health Department



MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST (revised 09/22/08)

APPROVED : MULTNOMAH COUNTY
 BOARD OF COMMISSIONERS
 AGENDA # R-3 DATE 07-16-09
 DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only

Meeting Date: 07/16/09
 Agenda Item #: R-3
 Est. Start Time: 9:55 AM
 Date Submitted: 07/08/09

**Agenda NOTICE OF INTENT to Apply for Urban Area Security Funding in the
 Title: Amount of \$219,076 for the Purchase of a Sheriff's Office Dive Team Vehicle**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.

Requested Meeting Date: July 16, 2009 **Amount of Time Needed:** 10 Minutes
Department: Sheriff's Office **Division:** Enforcement
Contact(s): Wanda Yantis
Phone: 503-988-4455 **Ext.** 84455 **I/O Address:** 503/350
Presenter(s): Lieutenant Mike Shults, Sergeant Harry Smith and Fiscal Manager Wanda Yantis

General Information

1. What action are you requesting from the Board?

The Sheriff's Office is requesting approval to apply for a federal Urban Area Security Initiative Grant for the purchase of a specialized dive van to be used by the River Patrol Dive Team.

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

The Sheriff's River Patrol partners with the Oregon State Marine Board, the Port of Portland and the U.S. Coast Guard to provide safe commercial and recreational access and passage to the county's 96 miles of waterways along the Columbia, Willamette, and Sandy Rivers. As part of the River Patrol mission, the Dive Team responds to a variety of calls including: drowning, suicide, vehicle crashes, dumped vehicles, evidence searches, homicides, missing person's searches, Homeland Security missions, special event security and aircraft crashes. Dive Team deputies are on call 24 hours a day and are called out several times each month.

The purchase of a specialized vehicle will allow the team to have equipment readily accessible for sustained operations including underwater breathing apparatus recharge and donning and doffing facilities. This vehicle will replace the existing van which is unable to carry the weight of the

equipment and is past its service life.

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

This will increase the Federal/State Fund (Fund 1505) by \$219,076 in capital equipment for the purchase of a specialized vehicle. The maintenance for the vehicle is already budgeted as this new vehicle is a direct replacement for an existing dive van at the end of its service life.

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

None anticipated.

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

None.

ATTACHMENT A

Grant Application/Notice of Intent

If the request is a Grant Application or Notice of Intent, please answer all of the following in detail:

- **Who is the granting agency?**

The Department of Homeland Security sponsors the Urban Area Security initiative (UASI) grant and it is administered locally by the Portland region UASI committee made up of several neighboring counties – Multnomah, Clackamas, Washington, Columbia, Clark, and Yamhill.
- **Specify grant (matching, reporting and other) requirements and goals.**

There is no County match required.
- **Explain grant funding detail – is this a one time only or long term commitment?**

This is a onetime only grant.
- **What are the estimated filing timelines?**

July 20th Portland area UASI committee vote.
- **If a grant, what period does the grant cover?**

This is the federal FY08/09 budget, which runs from October 1, 2008 through September 31, 2009.
- **When the grant expires, what are funding plans?**

This is for the direct replacement of an existing vehicle for which operations and maintenance expenses are currently budgeted.
- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**

According to the FY 2010 Budget Manual, Capital Expenditures are to be excluded from Indirect cost calculations.

ATTACHMENT B

Required Signatures

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

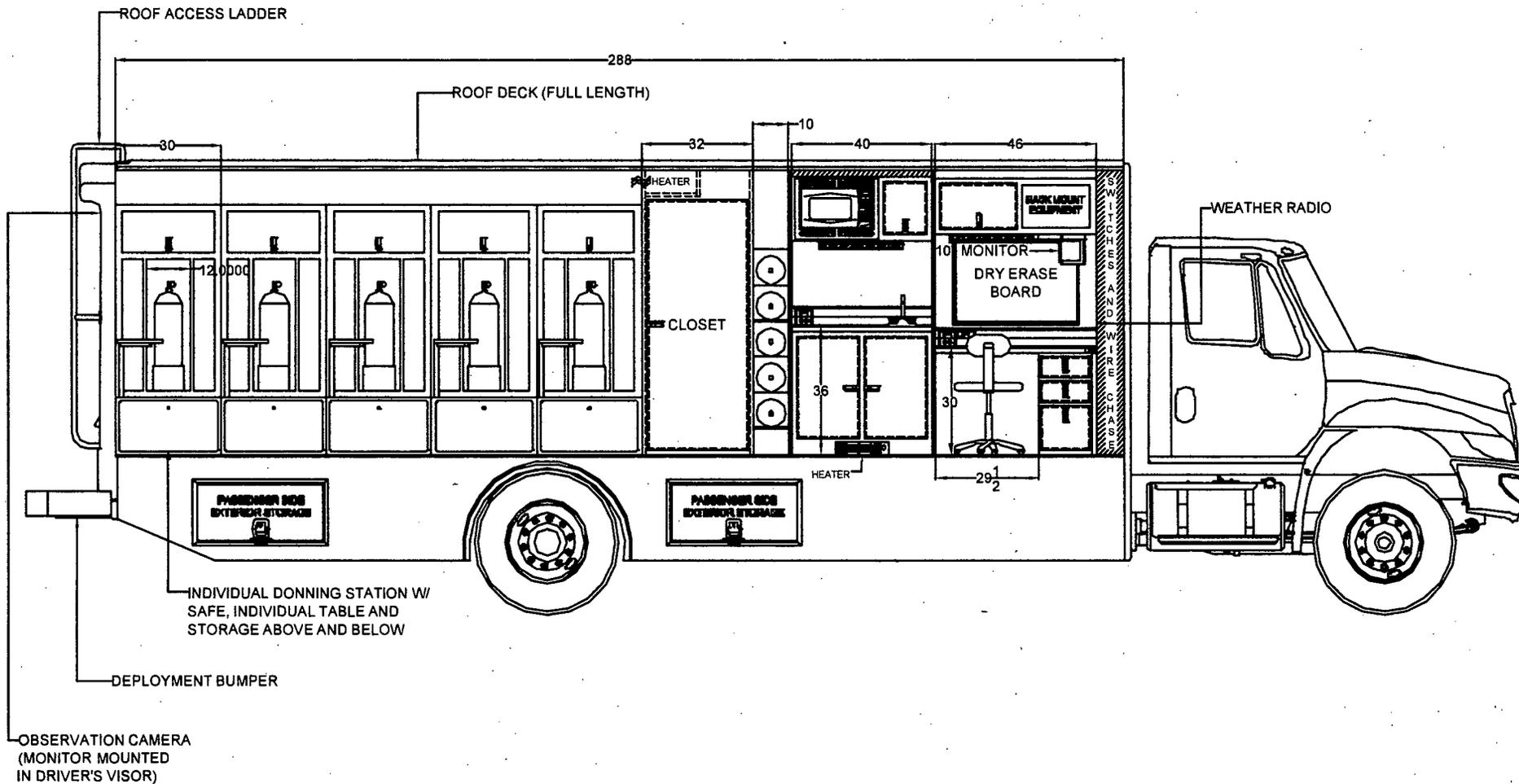
/s/ Bob Skipper / L.A.

Date: 07/06/09

Budget Analyst:

[Handwritten Signature]

Date: 07/08/09



NOTES:		SEAT SPACING TOLERANCE +/- 1" UNLESS OTHERWISE NOTED	
THIS DRAWING AND THE INFORMATION CONTAINED THEREIN ARE THE EXCLUSIVE PROPERTY OF TURTLE TOP AND SHALL NOT BE COPIED OR DUPLICATED IN ANY MANNER WITHOUT OUR WRITTEN CONSENT.			
ITEM NO: SPECIALTYMPVBUSIGRELAK 051106-1_288-I236_SD-RV_DIVE-RESCUE			
MODEL HLH	DATE 03/02/07	SCALE DNS	MODEL INTERNATIONAL MPV



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MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST (revised 09/22/08)

Board Clerk Use Only

Meeting Date: 07/16/09
 Agenda Item #: R-4
 Est. Start Time: 10:05 AM
 Date Submitted: 06/22/09

Agenda Title: Second Reading and Possible Adoption of a Proposed ORDINANCE Providing Housekeeping Amendments to Multnomah County Code Chapter 12, Business Income Tax

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.

Requested Meeting Date:	<u>July 16, 2009</u>	Amount of Time Needed:	<u>2 minutes</u>
Department:	<u>County Management</u>	Division:	<u>Finance Risk Management</u>
Contact(s):	<u>Mindy Harris</u>		
Phone:	<u>503 988-3786</u>	Ext.	<u>83786</u>
		I/O Address:	<u>503/531</u>
Presenter(s):	<u>Mark Campbell</u>		

General Information

1. **What action are you requesting from the Board?**
 Adoption of housekeeping changes to Chapter 12 - Business Income Tax law.
2. **Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.**
 Please see attached summary of changes. The purpose of the adoption of the housekeeping changes is to align Chapter 12 with the City of Portland Business License Law.
3. **Explain the fiscal impact (current year and ongoing).**
 No financial impact resulting from these modifications.
4. **Explain any legal and/or policy issues involved.**
 This is a simple alignment of code language to parallel similar language in the City of Portland Business License Law.
5. **Explain any citizen and/or other government participation that has or will take place.**
 City of Portland revision of their License Law was fully reviewed by City Attorneys Office and

Revenue Bureau Senior Auditors. The housekeeping changes to Chapter 12 were written to align with changes within the City of Portland Business License Law.

Required Signature

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

Carol M. Ford

Date: 06/24/09

Chapter 12 - Business Income Tax.

Summary of Changes:

Index: 12.260 adds Information Request

12.245-545 new section

12.800 renumbered to align with City code

12.820 renumbered to align with City code

12.845 renumbered to align with City code

12.855 renumbered to align with City code

The word "shall" has been replaced throughout the document beginning with 12.020. (reworked this to correct errors, ex: 12.255.(B) "cannot" replaced with "must not" and "can" replaced with "may")

12.100 deletes a partial sentence at the beginning of the first paragraph. Terms used are as defined in this chapter (I didn't substitute "section" for "chapter" as other terms are defined in the chapter).

Controlling Shareholder - deletes the word "either".

Division – changed from "The Finance Budget & Tax Office" to "The Finance and Risk Management Division"

Employee - deletes and replaces last part of the final sentence.

Income - moved from 12.110 to align with City code. (moved entire section 12.110 Income Defined)

Person - adds parenthesis item re: tenants-in-common.

12.110 moves the definition of "income" under 12.100. (moved entire section 12.110 Income Defined)

(A) adds parenthesis item re: tenants-in-common

(B) expands "state" to define "State of Oregon" (added (sState) after State of Oregon in definition instead as it's used in a couple of places within 12.110).

(B) The word "filling" has been replaced with "filing"

12.210 (D) sentence 5 changes "division" to "Administrator". I didn't change this as 'division' is defined as our Finance and Risk Management Division and we should have copy of Administrator's rules filed as well. Also deleted an extra "s" in third sentence from the end.

12.230 deletes leading partial sentence and reworks the paragraph. (this didn't sound right (otherwise required was changed to otherwise prohibited) – didn't rework this part.

12.240(B) replaces "tax filer" with "taxfiler"

(E) deleted "I" from "must"

12.260 adds "Information Request:" to title.

(A) inserts "request information or" in first sentence.

(A)(4) pluralizes tenant in "tenants-in-common".

12.290 (A) second sentence amended to include "the Administrator mailed or delivered" removing it from the latter portion of the same sentence. This same word-smithing repeats under (B), (C), (D) & (E) as well.

(I) has been re-written.

12.400 deletes the first sentence and replaces it with a new version. Didn't delete "incomes" as it's referenced in (B)

12.500 deletes (C), (D) & (E) as it is archaic language and it is not necessary to retain this information in this version of the code. This deletion was done based upon consultation with Audit Supervisor Scott Karter. (I deleted this, but it doesn't hurt to keep it in and I think it should be retained for historical purposes).

12.545 is a new subsection of the code. (I added this but it seems redundant to 12.550 or perhaps 12.550 could be expanded to include the payment is due with the filing).

12.550 (D) replaces the conclusion of the final sentence with "taxfiler".

12.600 (A) is rewritten. (deleted but I think it's a good idea to retain for historical reference).

(C)(1) adds "per general partner or member" to end of sentence. (done, but removed duplicate phrase before)

12.610 (B) the first sentence is rewritten to align with City code.

(C)(2) deletion of the bulk of the first sentence to align with City code. (?? Shouldn't this be retained if it's applicable to the County?)

(D) has been amended to delete unnecessary language included in the first sentence. Clarifying language has been inserted into sentence three (duplicative). A new sentence has been inserted as sentences four and five, to align with changes to City code, moving existing sentence four to sentence six.

12.700 (D)(3) adds clarifying language to align with 12.260. Inserted space between "documents" and "or" at end of sentence.

(D)(4) is a new sentence.

12.715 deleted "first" at beginning of sentence, as it was used twice.

12.800 renumbered to 12.805 to align with City code.

12.820 renumbered to 12.815 to align with City code.

12.845 renumbered to 12.840 to align with City code.

12.855 renumbered to 12.850 to align with City code.

(A) & (B) reversed and relettered to align with City code. Law followed by definitions. Not done, definitions are followed by law as in the rest of our code.

Of course, all subsections will need to have the new ordinance number and adoption date for these housekeeping changes included by reference.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. _____

Providing Housekeeping Amendments to Multnomah County Code Chapter 12, Business Income Tax

(Language ~~stricken~~ is deleted; double underlined language is new.)

Multnomah County Ordains as follows:

Section 1. MCC Chapter 12 is amended as follows:

12 BUSINESS INCOME TAX

12.005 Title.

This chapter ~~may be~~is known and cited as the Multnomah County Business Income Tax Law.

12.010 Taxes For Revenue.

The Board of the County Commissioners finds it is necessary to raise additional revenues to provide those county services required for the health, safety and welfare of the people of the county. The purpose of the taxes imposed by this chapter is to raise funds to provide those services within the county. All proceeds collected under this chapter ~~shall be~~are general fund revenue. This chapter is intended to establish a unified system for collection and allocation of taxes based upon business net income by the county and by cities within the county.

12.020 Conformity To State Income Tax Laws.

 The Business Income Tax Law ~~shall be~~is construed in conformity with the laws and regulations of the state imposing taxes on or measured by net income as those laws existed for that particular tax year. The Administrator ~~shall have~~ the authority by written policy, to connect to or disconnect from any legislative enactment that deals with income or excise taxation or the definition of income. Should a question arise under the Business Income Tax Law on which this chapter is silent, the Administrator may look to the laws of the State of Oregon for guidance in resolving the question, provided that the determination under state law is not in conflict with any provision of this chapter or the state law is otherwise inapplicable.

12.100 Definitions.

~~For t~~The purpose of this chapter, the terms used in this chapter shall be defined as provided in this chapter or in Administrative Rules, adopted under § 12.210 of this chapter, unless the context requires otherwise.

ADMINISTRATOR. The City of Portland Revenue Bureau along with its employees and agents.

APPEALS BOARD. The hearings body designated by the Board to review taxfiler appeals from final determinations by the Administrator.

BUSINESS. An enterprise, activity, profession or undertaking of any nature, whether related or unrelated, by a person in the pursuit of profit, gain or the production of income, including services performed by an individual for remuneration, but does not include wages earned as an employee.

CONTROLLING SHAREHOLDER. Any person, ~~either~~ alone or together with that person's spouse, parents, and/or children, who, directly or indirectly, owns more than 5% of any class of outstanding stock or securities of the taxfiler. The term **CONTROLLING SHAREHOLDER** may mean the controlling shareholder individually or in the aggregate.

DAY. A calendar day unless otherwise noted.

DIRECTOR. Multnomah County Chief Financial Officer.

DIVISION. The Finance ~~Budget & Tax Office~~ and Risk Management Division of the county.

DOING BUSINESS. To engage in any activity in pursuit of profit or gain, including but not limited to, any transaction involving the holding, sale, rental or lease of property, the manufacture or sale of goods or the sale or rendering of services other than as an employee. Doing business includes activities carried on by a person through officers, agents or employees as well as activities carried on by a person on his or her own behalf.

EMPLOYEE. Any individual who performs services for another individual or organization ~~having the right to control the employee as to the services to be performed and as to the manner of performance and whose compensation is reported by an IRS Form W-2.~~

INCOME. The net income arising from any business, as reportable to the State of Oregon (sState) for personal income, corporation excise, or income tax purposes, before any allocation or apportionment for operation out of state, or deduction for a net operating loss carry-forward or carry-back.

(A) Partnerships, S corporations, limited liability companies, limited liability partnerships, family limited partnerships, estates, trusts and joint ventures (including tenants-in-common arrangements) are liable for the business tax and not the individual partners, shareholders, members, beneficiaries or owners. The income of these entities must include all income received by the entity including ordinary income, interest and dividend income, income from sales of business assets and other income attributable to the entity.

(B) If one or more persons are required or elect to report their income to the sState for corporation excise or income tax purposes or personal income tax purposes in a consolidated, combined or joint return, a single return must be filed by the person filing such return. In such cases, **INCOME** means the net income of the consolidated, combined or joint group of taxfilers before any allocation or appointment for operation out of the state, or deduction for a net operating loss carrying-forward or carry-back.

(C) The absence of report income to the Internal Revenue Service or the sState does not limit the ability of the Administrator to determine the correct income of the taxfiler through examination under § 12.260 of this chapter.

INDIVIDUAL. A natural person.

NET OPERATING LOSS. The negative taxable income that may result after the deductions allowed by the Business Income Tax Law in determining net income for the tax year.

NONBUSINESS INCOME. Income not created in the course of the taxfiler's business activities.

NOTICE. A written document mailed first class by the Administrator or division to the last known address of a taxfiler as provided to the Administrator or division in the latest tax return on file with the Administrator.

OWNERSHIP OF OUTSTANDING STOCK OR SECURITIES. The incidents of ownership which include the power to vote on the corporation's business affairs or the power to vote for the directors, officers, operators or other managers of the taxfiler.

PERSON. Includes, but is not limited to a natural person, proprietorship, partnership, limited partnership, family limited partnerships, joint venture (including tenants-in-common arrangements), association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.

RECEIVED. The postmark date affixed by the United States postal service if mailed or the date stamp if delivered by hand or sent by facsimile or the receipt date from the online file and pay application confirmation notice.

TAX YEAR. The taxable year of a person for federal or state income tax purposes.

TAXFILER. A person doing business in the county and required to file a return under the Business Income Tax Law.

12.110 Income Defined.

~~For the purpose of this chapter, the following definition shall apply unless the context requires a different meaning.~~

~~**INCOME.** The net income arising from any business, as reportable to the State of Oregon for personal income, corporation excise, or income tax purposes, before any allocation or apportionment for operation out of state, or deduction for a net operating loss carry forward or carry back.~~

~~(A) Partnerships, S corporations, limited liability companies, limited liability partnerships, family limited partnerships, estates, trusts and joint ventures shall be liable for the business tax and not the individual partners, shareholders, members, beneficiaries or owners. The income of these entities shall include all income received by the entity including ordinary income, interest and dividend income, income from sales of business assets and other income attributable to the entity.~~

~~(B) If one or more persons are required or elect to report their income to the state for corporation excise or income tax purposes or personal income tax purposes in a consolidated, combined or joint return, a single return shall be filed by the person filing such return. In such cases, **INCOME** means the net income of the consolidated, combined or joint group of taxfilers before any allocation or apportionment for operation out of the state, or deduction for a net operating loss carrying forward or carry back.~~

~~(C) The absence of report income to the Internal Revenue Service or the state shall not limit the ability of the Administrator to determine the correct income of the taxfiler through examination under § 12.260 of this chapter.~~

12.200 Administration.

(A) The City of Portland, Revenue Bureau ~~shall be~~ the Administrator of record and ~~shall have~~ the authority to administer and enforce this chapter effective January 1, 1994 to include, but not limited to, administrative return processing, auditing, determinations, collection of taxes, penalties and interest (including instituting legal action in any court of competent jurisdiction by or on behalf of the Division or Administrator), protests and appeals that occur on or after January 1, 1994.

(B) The Administrator ~~shall have~~ access to and maintains all tax filings and records, under this chapter, on behalf of the county. The Administrator may, upon request, interpret how this chapter applies, in general or for a certain set of circumstances. Nothing in this chapter ~~shall preclude~~ the informal disposition of controversy by stipulation or agreed settlement, through correspondence or a conference with the Administrator.

12.210 Administrative Authority.

(A) The Administrator may implement procedures, forms, and written policies for administering the provisions of the Business Income Tax Law.

(B) The Administrator may adopt rules relating to matters within the scope of this chapter to administer compliance with the Business Income Tax Law.

(C) Before adopting a new rule, the Administrator ~~shall~~ must hold a public hearing. Prior to the hearing, the Administrator ~~shall~~ will publish a notice in a newspaper of general circulation in the county. The notice ~~shall~~ must be published not less than ten nor more than 30 days before the hearing; ~~and it must.~~ ~~Such notice shall~~ include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed rule, and the location where copies of the full text of the proposed rule may be obtained.

(D) At the public hearing, the Administrator, or designee, ~~shall take~~ will receive oral and written testimony concerning the proposed rule. The Administrator ~~shall~~ will either adopt the proposed rule, modify it, or reject it, taking into consideration the testimony received during the public hearing. If a substantial modification is made, additional public review ~~shall~~ will be conducted, but no additional public notice ~~shall be~~ required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules ~~shall be~~ effective upon adoption by the Administrator. All rules adopted by the Administrator ~~shall~~ will be filed in the division's office. Copies of all current rules ~~shall~~ will be made available to the public upon request.

(E) Notwithstanding subsections (C) and (D), the Administrator may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. Any interim rule adopted pursuant to this subsection ~~shall be~~ effective for a period of not longer than 180 days.

12.220 Presumption Of Doing Business.

A person is presumed to be doing business in the county and subject to this chapter if engaged in any of the following activities:

(A) Advertising or otherwise professing to be doing business within the county;

- (B) Delivering goods or providing services to customers within the county;
- (C) Owning, leasing or renting personal or real property within the county which is used in a trade or business;
- (D) Engaging in any transaction involving the production of income from holding property or the gain from the sale of property, which is not otherwise exempted in this chapter. Property may be personal, including intangible, or real in nature; or
- (E) Engaging in any activity in pursuit of gain which is not otherwise exempted in this chapter.

12.225 Ownership Of Taxfiler Information.

The county ~~shall be~~ the sole owner of all filer information under the authority of this chapter. The Director or the director's designee ~~shall have~~ access to all taxfiler information at all times.

12.230 Confidentiality.

Except as provided in this chapter or otherwise required by law, it ~~shall be~~ unlawful for the division or the Administrator, or any elected official, employee, or agent of the county, or for any person who has acquired information pursuant to § 12.240(A) and (C) to divulge, release, or make known in any manner any financial information submitted or disclosed to the county under the terms of the Business Income Tax Law. Nothing in this section ~~shall should~~ be construed to prohibit:

- (A) The disclosure of the names and addresses of any persons who have a tax account with the Administrator;
- (B) The disclosure of general statistics in a form which would prevent the identification of financial information regarding an individual taxfiler;
- (C) The filing of any legal action by or on behalf of the Division or Administrator to obtain payment on unpaid accounts or the disclosure of information necessary to do so; or
- (D) The assignment to an outside collection agency of any unpaid account balance receivable provided that the Division or Administrator notifies the taxfiler of the unpaid balance at least 60 days prior to the assignment of the claim. Any assignment to an outside collection agency is subject to a reasonable collection fee, above and beyond any amount owed to the County.

12.240 Persons To Whom Information May Be Furnished.

(A) The division or Administrator may disclose and give access to information described in § 12.230 to an authorized representative of the Department of Revenue, State of Oregon, or of any local government of the state imposing taxes upon or measured by gross receipts or net income, for the following purposes:

- (1) To inspect the tax return of any taxfiler;
- (2) To obtain an abstract or copy of the tax return;

- (3) To obtain information concerning any item contained in any return; or
- (4) To obtain information of any financial audit of the tax returns of any taxfiler.

Such disclosure and access ~~shall~~will be granted only if the laws, regulations or practices of such other jurisdiction maintain the confidentiality of such information at least to the extent provided by the Business Income Tax Law.

(B) Upon request of a taxfiler, or authorized representative, the Administrator ~~shall~~will provide copies of any tax return information filed by the tax-filer in the Administrator's possession.

(C) The division or Administrator may also disclose and give access to information described in § 12.230 to:

(1) The County Attorney, his or her assistants and employees, or other legal representatives of the County, to the extent the division deems disclosure or access necessary for the performance of the duties of advising or representing the division.

(2) The City Attorney, his or her assistants and employees, or other legal representatives of the City, to the extent the Administrator deems disclosure or access necessary for the performance of the duties of advising or representing the Administrator, including but not limited to instituting legal actions on unpaid accounts.

(3) Other county employees and agents, to the extent the division deems disclosure or access necessary for such employees or agents to perform their duties under contracts or agreements between the division and any other department, division, agency or subdivision of the county relating to the administration of the Business Income Tax Law.

(4) City of Portland employees, agents and officials of the City, to the extent the Administrator deems disclosure or access necessary for such employees, agents or officials to:

(a) Aid in any legal collection effort on unpaid accounts;

(b) Perform their duties under contracts or agreements between the Administrator and any other department, bureau, agency or subdivision of the City relating to the administration of the Business Income Tax Law; or

(c) Aid in determining whether a Business Income Tax account is in compliance with all City, State and Federal laws or policies.

(D) All employees and agents of the division or county, prior to the performance of duties involving access to financial information submitted to the county under the terms of the Business Income Tax Law, ~~shall~~must be advised in writing of the provision of § 12.730 relating to penalties for the violation of §§ ~~12.240-230~~ and 12.255. Such employees and agents ~~shall~~must execute a certificate in a form prescribed by the division, stating that the person has reviewed these provisions of law, has had them explained, and is aware of the penalties for the violation of §§ 12.230, ~~12.240~~ and 12.255.

(E) Prior to any disclosures permitted by this section, all persons described in subsection (A), to whom disclosure or access to financial information is given, ~~shall~~must:

(1) Be advised in writing of the provisions of § 12.730 relating to penalties for the violation of § 12.230; and

(2) Execute a certificate in a form prescribed by the division, stating these provisions of law have been reviewed and they are aware of the penalties for the violation of § 12.230.

(F) The director's signature on the certificate, required by subsection (E)(2), ~~shall will~~ constitute consent to disclosure to the persons executing the certificate.

12.250 Taxfiler Representation.

No person ~~shall will~~ be recognized as representing any taxfiler in regard to any matter relating to the tax of such taxfiler without written authorization of the taxfiler or unless the Administrator determines from other available information the person has authority to represent the taxfiler.

12.255 Representation Restrictions.

(A) No employee or official of the county, the Administrator, any public agency authorized to collect taxes imposed by this chapter, ~~shall may~~ represent any taxfiler in any matter before the Administrator. This restriction against taxfiler representation ~~shall will~~ continue for two years after termination of employment or official status.

(B) Members of the appeals board ~~shall must~~ not represent a taxfiler before the appeals board. No member of the appeals board ~~shall may~~ participate in any matter before the board if the appellant is a client of the member or the member's firm.

12.260 Information Request, Examination Of Books, Records Or Persons.

(A) The Administrator may request information or examine any books, papers, records, or memoranda, including state and federal income or excise tax returns, to ascertain the correctness of any tax return or to make an estimate of any tax. The Administrator ~~shall have~~ the authority, after notice, to:

(1) Require the attendance of any person required to file a tax return under the Business Income Tax Law, or officers, agents, or other persons with knowledge of the person's business operations, at any reasonable time and place the Administrator may designate;

(2) Take testimony, with or without the power to administer oaths to any person required to be in attendance;

(3) Require proof for the information sought, necessary to carry out the provisions of this chapter; and

(4) Require the property manager of a tenants-in-common arrangement to provide financial information related to the arrangement as well as information regarding the owners, including, but not limited to, the name and last known addresses of the owners.

(B) The Administrator ~~shall will~~ designate the employees who ~~shall will~~ have the power to administer oaths hereunder. Such employees ~~shall must~~ be notaries public of the State of Oregon.

12.270 Records.

Every person required to file a return under the Business Income Tax Law ~~shall~~must keep and preserve for not less than seven years such documents and records, including state and federal income and excise tax returns, accurately supporting the information reported on the taxfiler's return and calculation of tax for each year.

12.280 Deficiencies And Refunds.

(A) Deficiencies may be assessed and refunds granted any time within the period provided under ORS 314.410, 314.415, and 317.950. The Administrator may by agreement with the taxfiler extend such time periods to the same extent as provided by statute.

(B) Consistent with ORS 314.410(3), in cases where no tax return has been filed, there ~~shall be~~is no time limit for a notice of deficiency and/or the assessment of taxes, penalty and interest due.

(C) Notwithstanding subsections (A) and (B), the Administrator is not required to accept any tax return from a taxfiler if:

(1) The Administrator obtains a money judgment against the taxfiler for failure to pay an unpaid account balance due; and

(2) The Administrator or its designee lawfully served the taxfiler with the lawsuit pursuant to the Oregon Rules of Civil Procedure; and

(3) The tax return is for a taxable year that is the subject of the general money judgment; and

(4) The Administrator gave written notice stating that the taxfiler had an outstanding balance due at least ~~60~~30 days before the Administrator (or its designee) filed a lawsuit for those particular taxable years.

12.290 Protests And Appeals.

(A) Any determination by the Administrator may be protested by the taxfiler. Written notice of the protest must be received by the Administrator within 30 days after the Administrator mailed or delivered the notice of determination ~~was mailed or delivered~~ to the taxfiler. The protest ~~shall~~must state the name and address of the taxfiler and an explanation of the grounds for the protest. The Administrator ~~shall~~must respond within 30 days after the protest is filed ~~with the Administrator~~ with either a revised determination or a final determination. The Administrator's determination ~~shall~~must include the reasons for the determination and state the time and manner for appealing the determination. The time to file a protest or the time for the Administrator's response may be extended by the Administrator, for good cause. Requests for extensions of time must be received prior to the expiration of the original 30-day protest deadline. Written notice ~~shall~~will be given to the taxfiler if the Administrator's deadline is extended.

(B) Any final determination by the Administrator may be appealed by the taxfiler to the appeals board. Written notice of the appeal must be received by the Administrator within 30 days after the Administrator mailed or delivered the final determination ~~was mailed or delivered~~ to the appellant. The notice of appeal ~~shall~~must state the name and address of the appellant and include a copy of the final determination.

(C) Within 90 days after the Administrator mails or delivers the final determination was mailed or delivered to the taxfilerappellant, the appellant shall must file with the appeals board a written statement containing:

- (1) The reasons the Administrator's determination is incorrect; and
- (2) What the correct determination should be.

Failure to file such a written statement within the time permitted shall will be deemed a waiver of any objections, and the appeal shall will be dismissed.

(D) Within 150 days after the Administrator mails or delivers the final determination was mailed or delivered to the taxfilerappellant, the Administrator shall will file with the appeals board a written response to the appellant's statement. A copy of the Administrator's response shall must be promptly mailed to the address provided by the appellant within 10 days.

(E) The Administrator must provide the appellant shall be given not less than 14 days prior written notice of the hearing date and location at least 14 days prior to the hearing. The appellant and the Administrator shall have the opportunity to may present relevant testimony and oral argument at the hearing. The appeals board may request such additional written comment and documents as it deems appropriate.

(F) Decisions of the appeals board shall must be in writing, state the basis for the decision and be signed by the appeals board chair.

(G) The decision of the appeals board shall be final on as of the date it is issue date and no further administrative appeal shall will be provided.

(H) The filing of an appeal with the appeals board shall temporarily suspend the obligation to pay any tax that is the subject of the appeal pending a final decision by the appeals board.

(I) Penalty waiver and/or reduction requests are not subject to the protest/appeal process or timeline outlined in Sections 12.290(A) through 12.290(H). The taxfiler must file a written request with the Administrator detailing why a penalty should be waived within 30 days of receipt of a billing notice that assesses a penalty. The Administrator must respond to requests to reduce and/or waive penalties within 60 days from the date the written request is received. As provided in Section 12.700(G), the Administrator may waive or reduce penalties in certain situations. If the taxfiler has requested that penalties be waived and the Administrator denies the taxfiler's request for this discretionary waiver of penalties, the taxfiler may request a conference with the Administrator (or Administrator's designee) within 30 days of the date of the Administrator's notice of denial. If the conference with the Administrator results in a denial of the penalty waiver request, that decision is final and may not be appealed to the Appeals Board.
~~until the taxfiler receives written notice from the Administrator that the taxfiler's request was either denied or only approved in part. The Administrator shall respond to requests to reduce and/or waive late and/or underpayment penalties within 60 days from the date that the written request is received by the Administrator.~~

12.400 Exemptions.

The Administrator may require the filings of tax returns or other documentary verification of any exemption claimed under this section. To the extent set forth below, the following persons or incomes are exempt from payment of tax requirements imposed by the Business Income Tax Law:

(A) Persons whom the county is prohibited from taxing under the Constitution or laws of the United States or the Constitution or laws of the State of Oregon or County Charter.

(B) Income arising from transactions which the county is prohibited from taxing under the Constitution or the laws of the United States or the Constitution or laws of the State of Oregon or County Charter.

(C) Persons whose gross receipts from all business, both within and without the county, amount to less than \$50,000 (\$25,000 for tax years that begin prior to January 1, 2008). The Administrator may demand a statement that the person's gross receipts for any tax year were less than the stated exemption amount for the tax year for which exemption is claimed.

(D) Corporations exempt from the State of Oregon Corporation Excise Tax under ORS 317.080, provided that any such corporation subject to the tax on unrelated business income under ORS 317.920 to 317.930 ~~shall~~ must pay a tax based solely on such income.

(E) Trusts exempt from federal income tax under Internal Revenue Code Section 501, provided that any exempt trust subject to tax on unrelated business income and certain other activities under Internal Revenue Code Section 501(b) ~~shall be~~ are subject to the tax under this chapter based solely on that income.

(F) Any individual whose only business transactions are exclusively limited to the renting or leasing of residential real property dwelling units provided that the beneficial owner rents or leases less than ten total units, regardless of whether the units are located inside or outside of the County. For purposes of this subsection, payments to foster care and other service providers ~~shall be~~ are considered payments for "services" and not for "rent". If a building contains more than one residential living quarter, the term "dwelling unit" refers to each separate living quarter. This exemption does not apply if any income is recognized from the sale of residential property.

(G) Income of an individual from:

- (1) Sales, exchanges or involuntary conversions of a primary or secondary residence;
- (2) Sale of personal property acquired for household or other personal use by the seller;
- (3) Interest and dividend income earned from investments, if the income is not created in the course of or related to the taxfiler's business activities; and
- (4) Gains and losses incurred from the sale of investments (other than real property) that are not a part of a business.

(H) Any person whose only business transactions are exclusively limited to the following activities:

- (1) Raising, harvesting and selling of the person's own crops, or the feeding, breeding, management and sale of the person's own livestock, poultry, furbearing animals or honeybees, or sale of the produce thereof, or any other agricultural, horticultural or animal husbandry activity carried on by any person on the person's own behalf and not for others, or dairying and the sale of dairy products to processors. This exemption ~~shall~~ does not apply if, in addition to the farm activities described in this subsection, the person does any processing of the person's own farm products which changes their character or form, or the person's business includes the handling, preparation, storage, processing or marketing of farm products raised or produced by others; or the processing of milk or milk products whether produced by said person or by others for retail or wholesale distribution.

(2) Operating within a permanent structure a display space, booth or table for selling or displaying merchandise by an affiliated participant at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any tax year.

12.500 Imposition And Rate Of Tax.

(A) Except as otherwise provided in this chapter, a tax is imposed upon each person doing business within the county equal to 1.45% of the net income from the business within the county effective with tax years beginning on or after January 1, 1993. For tax years beginning on or after January 1, 2008 each taxfiler not otherwise exempt ~~shall~~must determine their tax at the rate established in this section, provided that each ~~shall~~must pay at least a minimum tax of \$100.00.

(B) The payment of a tax required hereunder and the acceptance of such tax ~~shall~~does not entitle a taxfiler to carry on any business not in compliance with all the requirements of this code and all other applicable laws.

~~———— (C) ——— For the business year beginning on or after January 1, 1998, if the tax imposed by this section exceeds \$100, each person doing business within Multnomah County shall pay, in addition, a Temporary Education Surcharge equal to one half percent (.50%) of the net income from the business within the County. This surcharge shall be in effect only for 1998 and shall not apply to business years beginning on or after January 1, 1999.~~

~~———— (D) ——— The receipts from the surcharge imposed by subsection (C) shall be used only to benefit public schools in Multnomah County. Receipts from the Temporary Educational BIT surcharge shall only be used to maintain or reduce class size by preventing teacher layoffs in FY 1998-99. The public school districts with projected budget shortfalls in FY 98-99 shall only spend surcharge revenues to pay for salaries of teacher positions or other state certified personnel, which would otherwise be eliminated. To be eligible for BIT surcharge funds, school districts with projected budget shortfalls in FY 98-99 shall submit a list of positions for state certified positions subject to elimination from the budget and their accompanying salary, to Multnomah County no later than May 30, 1998. Districts without budget shortfalls in FY 98-99 shall submit a list of additional teaching positions and other staff certified positions and materials directly related to instruction. Multnomah County will allocate the BIT surcharge revenues to each public school to pay for teacher positions or other state certified positions, based upon the list submitted by each school district.~~

~~———— (E) ——— The Temporary Education Surcharge receipts shall be distributed to every public school district in Multnomah County according to a formula approved by the Board of County Commissioners.~~

12.510 Return Due Date.

(A) Tax returns ~~shall~~must be on forms provided or approved by the Administrator. All tax returns ~~shall~~must be filed, together with the specified tax by the fifteenth day of the fourth month following the end of the tax year.

(B) The Administrator may, for good cause, grant extensions for filing returns, except that no extension may be granted for more than six months beyond the initial due date. This extension does not extend the time to pay the tax.

(C) The tax return ~~shall~~must contain a written declaration, verified by the taxfiler, to the effect that the statements made therein are true.

(D) The Administrator ~~shall will~~ prepare blank tax returns and make them available upon request. Failure to receive or secure a form ~~shall does~~ not relieve any person from the obligation to pay a tax under the Business Income Tax Law.

12.520 Quarterly Estimates.

For tax years beginning on or after January 1, 1993, every taxfiler who incurred a tax liability, under § 12.500 of \$1,000 or greater ~~shall must~~ estimate the taxfiler's tax liability for the current tax year under this chapter and pay the amount of tax determined as provided in § 12.530.

12.530 Schedule For Payment Of Estimated Tax.

A taxfiler required under § 12.520 of this chapter to make payments of estimated tax ~~shall must~~ make the payments in installments as follows:

(A) One quarter or more of the estimated tax on or before the fifteenth day of the fourth month of the tax year;

(B) One quarter or more of the estimated tax on or before the fifteenth day of the sixth month of the tax year;

(C) One quarter or more of the estimated tax on or before the fifteenth day of the ninth month of the tax year; and

(D) The balance of the estimated tax ~~shall must~~ be paid on or before the fifteenth day of the twelfth month of the tax year.

(E) Any payment of the estimated tax received by the Administrator for which the taxfiler has made no designation of the quarterly installment to which the payment is to be applied, ~~shall will~~ first be applied to underpayments of estimated tax due for any prior quarter of the tax year. Any excess amount ~~shall will~~ be applied to the installment that next becomes due after the payment was received.

12.545 Tax Return.

Each tax return must be accompanied by a tax payment at the rate established in Section 12.500, provided that each such tax return must be accompanied by a minimum tax of \$100. The minimum payment may have previously been paid by quarterly payments, an extension payment, or credit available from a prior tax year.

12.550 Presumptive Tax.

(A) If a person fails to file a return, a rebuttable presumption ~~shall exists~~ that the tax payable amounts to \$500 for every tax year for which a return has not been filed.

(B) Nothing in this section ~~shall prevents~~ the Administrator from assessing a tax due which is less than or greater than \$500 per tax year.

(C) If the taxfiler filed a tax return the previous tax year, then presumptive taxes assessed under this subsection ~~shall will~~ be considered a tax return. Presumptive taxes assessed under this subsection ~~shall beare~~ considered filed documents and ~~shall beare~~ subject to the time limitations for deficiencies and refunds as described in subsection 12.280.

(D) Taxes determined under this subsection ~~shall be assessed and are~~ subject to penalties and interest from the date the taxes should have been paid as provided in subsection 12.510 in accordance with subsections 12.700 and 12.710. The Administrator ~~shall will~~ send notice of the determination and assessment to the ~~person doing business in the County taxfiler~~.

12.560 Payment Plan Fee.

If a person fails to pay the Multnomah County Business Income tax when due, the Administrator may establish a payment plan pursuant to written policy. The Administrator may charge a set up fee for each payment plan established.

12.600 Income Determinations.

(A) *Owners compensation deduction.* **OWNERS COMPENSATION DEDUCTION** is defined as the additional deduction allowed in subsections (B), (C) and (D) below.

(1) ~~For tax years beginning prior to January 1, 1999, the owner's compensation deduction as defined in this section cannot exceed \$50,000 per owner.~~

~~(2) For tax years beginning on or after January 1, 1999, the owners compensation deduction will be indexed by the Consumer Price Index - All Urban Consumers (CPI-U) U.S. City Average as published by the U.S. Department of Labor, Bureau of Labor Statistics, using the September to September index, not seasonally adjusted (unadjusted index). The initial index will be the September 1998 to September 1999 index. The Administrator will determine the exact deduction amount and publishes the amount on forms. Any increase or decrease under this subsection which is not a multiple of \$500 shall will be rounded up or down to the next multiple of \$500 at the Administrator's discretion.~~

(32) For tax years beginning on or after January 1, 2008, the owners compensation deduction cannot exceed \$80,000 plus CPI-U for September 2007 to September 2008 per owner as defined in Sections (B), (C) and (D) below.

(43) For tax years beginning on or after January 1, 2009, the owners compensation deduction will be indexed as described in (21) above.

(B) *Sole proprietorship.* In determining income, no deductions ~~shall be is~~ allowed for any compensation for services rendered by, or interest paid to, owners. However, 75% of income determined without such deductions ~~shall be is~~ allowed as an additional deduction, not to exceed the amount per owner as determined in subsection (A) above.

(C) *Partnerships.* In determining income, no deduction ~~shall be is~~ allowed for any compensation for services rendered by, or interest paid to, owners of partnerships, limited partnerships, limited liability companies, limited liability partnerships or family limited partnerships. Guaranteed payments to partners or members ~~shall beare~~ deemed compensation paid to owners for services rendered. However:

(1) For general partners or members, 75% of income determined without such deductions ~~shall be~~ allowed as an additional deduction, not to exceed the amount ~~per general partner or member~~ as determined in subsection (A) above per general partner or member.

(2) For limited partners or members of limited liability corporations who are deemed partners by administrative rule or policy, 75% of income determined without such deductions ~~shall be~~ allowed as an additional deduction, not to exceed the lesser of actual compensation and interest paid or the amount determined in subsection (A) above per compensated limited partner.

(D) *Corporations.* In determining income, no deduction ~~shall be~~ allowed for any compensation for services rendered by, or interest paid to, controlling shareholders of any corporation, including, but not limited to C and S corporations and any other entity electing treatment as a corporation, either C or S. However, 75% of the corporation's income, determined without deduction of compensation or interest, ~~shall be~~ allowed as a deduction in addition to any other allowable deductions, not to exceed the lesser of the actual compensation and interest paid or the amount for each controlling shareholder as determined in subsection (A) above.

(1) For purposes of this subsection, to calculate the compensation for services rendered by or interest paid to controlling shareholders that must be added back to income, wages, salaries, fees, or interest paid to all persons meeting the definition of a controlling shareholder, must be included.

(2) For purposes of this subsection, in determining the number of controlling shareholders, a controlling shareholder and that person's spouse, parents and children count as one owner, unless such spouse, parent or child individually own more than 5% ownership of outstanding stock or securities in their own name. In that case, each spouse, parent or child who owns more than 5% of stock ~~shall be~~ deemed to be an additional controlling shareholder.

(3) For purposes of this subsection (C), joint ownership of outstanding stock or securities ~~shall is~~ not be considered separate ownership.

(E) *Estates and trusts.* In determining income for estates and trusts, income ~~shall be~~ measured before distribution of profits to beneficiaries. No additional deduction ~~shall be~~ allowed.

(F) *Nonbusiness income.* In determining income under this section, an allocation ~~shall be~~ allowed for nonbusiness income as reported to the State of Oregon. However, income treated as nonbusiness income for State of Oregon tax purposes may not necessarily be defined as nonbusiness income under the Business Income Tax Law. Interest and dividend income, rental income or losses from real and personal business property, and gains or losses on sales of property or investments owned by a trade or business ~~shall be~~ treated as business income for purposes of the Business Income Tax Law. Income derived from non-unitary business functions reported at the state level may be considered nonbusiness income. Non-unitary income will not be recognized at an intrastate level. The taxfiler ~~shall~~ have the burden of showing that income is nonbusiness income.

(G) *Tax based on or measured by net income.* In determining income, no deduction ~~shall be~~ allowed for taxes based on or measured by net income. No deduction ~~shall be~~ allowed for the federal built-in gains tax.

(H) *Ordinary gain or loss.* In determining income, gain or loss from the sale, exchange or involuntary conversion of real property or tangible and intangible personal property not exempt under § 12.400(G) and § 12.400(H) ~~shall~~ must be included as ordinary gain or loss.

(I) *Net operating loss.* In determining income, a deduction ~~shall be~~ allowed equal to the aggregate of the net operating losses incurred in prior years, not to exceed 75% of the income determined

for the current tax year before this deduction but after all other deductions from income allowed by this section and apportioned for business activity both within and without the county.

(1) When the operations of the taxfiler from doing business both within and without the county result in a net operating loss, such loss ~~shall~~will be apportioned in the same manner as the net income under § 12.600. However, in no case ~~shall~~may a net operating loss be carried forward from any tax year during which the taxfiler conducted no business within the county or the taxfiler was otherwise exempt from tax filing requirements.

(2) In computing the net operating loss for any tax year, the net operating loss of a prior tax year ~~shall~~is not be allowed as a deduction.

(3) In computing the net operating loss for any tax year, no compensation allowance deduction ~~shall~~be allowed to increase the net operating loss. **COMPENSATION ALLOWANCE DEDUCTION** is defined as the additional deduction allowed by subsection (A).

(4) The net operating loss of the earliest tax year available ~~shall~~must be exhausted before a net operating loss from a later tax year may be deducted.

(5) The net operating loss in any tax year ~~shall~~be allowed as a deduction in any of the five succeeding tax years until used or expired. Any partial tax year ~~shall~~will be treated the same as a full tax year in determining the appropriate carry-forward period.

12.610 Apportionment Of Income.

(A) Business activity means any of the elements of doing business. However, a person ~~shall~~is not be considered to have engaged in business activities solely by reason of sales of tangible personal property in any state or political subdivision, or solely the solicitation of orders for sales of tangible personal property in any state or political subdivision. Business activities conducted on behalf of a person by independent contractors are not considered business activities by the person in any state or political subdivision.

(B) ~~Any~~In computing the tax, taxfilers that haveing income from business activity both within and without the county ~~shall in computing the tax, must~~ determine the income apportioned to the county by multiplying the total net income from the taxfiler's business by a fraction, the numerator of which is the total gross income of the taxfiler from business activity in the county during the tax year, and the denominator of which is the total gross income of the taxfiler from business activity everywhere during the tax year.

(C) In determining the apportionment of gross income within the county under subsection (B):

(1) Sales of tangible personal property ~~shall~~be deemed to take place in the county if the property is delivered or shipped to a purchaser within the county regardless of the f.o.b. point or other conditions of sale. Sales of tangible personal property shipped from the county to a purchaser located where the taxfiler is not taxable ~~shall~~are not be apportioned to the county.

(2) Sales other than sales of tangible personal property ~~shall~~be deemed to take place in the county, if the income producing activity is performed in the county ~~or the income producing activity is performed both in and outside the county and a greater portion of the income producing activity is performed in the county than outside the county based on costs of performance.~~

(D) Certain industries or incomes ~~shall be~~ subject to specific apportionment or allocation methodologies. Such methodologies ~~shall be~~ described in administrative rules adopted in accordance with § 12.210. Industry specific or income specific apportionment methodologies required by Oregon Revised Statutes for apportionment of gross sales shall will be used in cases where no rule has been adopted by the Administrator regarding the apportionment of such industry or income. When gross sales as reported to Oregon are used for apportionment purposes, such gross sales will be defined as gross income for apportionment purposes herein. All apportionment methodologies directed under this subsection will be a single factor gross income apportionment as directed under § 12.210 (B) and § 12.210 (C). In those specific cases where the state has directed allocation of income, such income ~~shall~~ will be apportioned for purposes of this chapter, unless allocation is otherwise allowed in this chapter.

(E) If the apportionment provisions of subsection (B) do not fairly represent the extent of the taxfiler's business activity in the county and result in the violation of the taxfiler's rights under the Constitution of this state or the United States, the taxfiler may petition the Administrator to permit the taxfiler to:

- (1) Utilize the method of allocation and apportionment used by the taxfiler under the applicable laws of the state imposing taxes upon or measured by net income; or
- (2) Utilize any other method to effectuate an equitable apportionment of the taxfiler's income.

12.620 Changes To Federal Or State Tax Returns.

(A) If a taxfiler's reported net income under applicable state laws imposing a tax on or measured by income is changed by the Federal Internal Revenue Service or the state Department of Revenue, or amended by the taxfiler to correct an error in the original federal or state return, a report of such change ~~shall must~~ be filed with the Administrator within 60 days after the date of the notice of the final determination of change or after an amended return is filed with the federal or state agencies. The report ~~shall must~~ be accompanied by an amended tax return with respect to such income and by any additional tax, penalty, and interest due.

(B) The Administrator may assess deficiencies and grant funds resulting from changes to federal, state or business income tax returns within the time periods provided for in § 12.280 of this chapter, treating the report of change in federal, state or business income tax returns as the filing of an amended tax return.

(C) The Administrator may assess penalties and interest on the additional tax due as provided in §§ 12.700 (A) and 12.710 or may refuse to grant a refund of taxes as a result of the amended return if the amended return is not filed with the Administrator within the time limits set forth in subsection (A).

12.700 Penalty.

- (A) (1) A penalty ~~shall will~~ be assessed if a person:
 - (a) Fails to file a tax return or extension request at the time required under §§ 12.510(A) or 12.620(A); or
 - (b) Fails to pay a tax when due.
- (2) The penalty under subsection (A) ~~shall be calculated as:~~

(a) Five percent of the total tax liability if the failure is for a period less than four months;

(b) An additional penalty of 20% of the total tax liability if the failure is for a period of four months or more; and

(c) An additional penalty of 100% of the total tax liability of all tax years if the failure to file is for three or more consecutive tax years.

(B) (1) A penalty ~~shall~~will be assessed if a person who has filed an extension request:

(a) Fails to file a tax return by the extended due date; or

(b) Fails to pay the tax liability by the extended due date.

(2) The penalty under subsection (B) ~~shall be calculated as~~is:

(a) Five percent of the total tax liability if the failure is for a period of less than four months; and

(b) An additional penalty of 20% of the total tax liability if the failure is for a period of four months or more.

(C) (1) A penalty ~~shall~~will be assessed if a person:

(a) Fails to pay at least 90% of the total tax liability by the original due date;
or

(b) Fails to pay at least 100% of the prior year's total tax liability by the original due date.

(2) The penalty under subsection (C) ~~shall be calculated as~~is 5% of the tax underpayment, but not less than \$5.

(D) The Administrator may impose a civil penalty of up to \$500 for each of the following violations of this chapter:

(1) Failure to file any tax return within 60 days of the Administrator's original written notice to file; or

(2) Failure to pay any tax within 60 days of the Administrator's original written notice for payment; or

(3) Failure to provide either documents or information as required by §§ 12.260 within 60 days of the Administrator's original written notice to provide the documents or information; or

(4) Failure to fully complete any form required under this chapter.

(E) The Administrator may impose a civil penalty under subsection (D) only if the Administrator gave notice of the potential for assessment of civil penalties for failure to comply or respond in the original written notice.

(F) The Administrator may waive or reduce any penalty determined under subsections (A) through (D) for good cause, according to and consistent with written policies.

12.710 Interest.

(A) Interest ~~shall will~~ be ~~collected assessed~~ on any unpaid tax at the rate of .833% simple interest per month or fraction thereof (10% per annum), computed from the original due date of the tax to the fifteenth day of the month following the date of payment.

(B) Interest ~~shall will~~ be ~~collected assessed~~ on any unpaid or underpaid quarterly estimated payment required by §§ 12.520 and 12.530 at the rate of .833% simple interest per month or fraction thereof (10% per annum), computed from the due date of each quarterly estimated payment to the original due date of the tax return to which the estimated payments apply.

(C) Notwithstanding subsection (B), there ~~shall be~~ is no interest on underpayment of quarterly estimated payments if:

- (1) The total tax liability of the prior tax year was less than \$1,000;
- (2) An amount equal to at least 90% of the total tax liability for the current tax year was paid in accordance with § 12.530; or
- (3) An amount equal to at least 100% of the prior year's total tax liability was paid in accordance with § 12.530.

(D) For purposes of subsection (B), the amount of underpayment is determined by comparing 90% of the current total tax liability amount to quarterly estimated payments made prior to the original due date of the tax return. However, if 100% of the prior year's total tax liability is paid to the Administrator by the due date of the fourth quarterly payment, the Administrator may use the prior year's tax liability if doing so will reduce the amount of interest owed.

(E) For purposes of subsection (A), the amount of tax due on the tax return ~~shall will~~ be reduced by the amount of any tax payment made on or before the date for payment of the tax in accordance with § 12.510(A) or 12.530.

(F) Interest at the rate specified in subsection (A) ~~shall accrue~~ from the original due date without regard to any extension of the filing date.

(G) Any interest amounts properly assessed in accordance with this section may not be waived or reduced by the Administrator, unless specifically provided for by written policy.

12.715 Payments Applied.

Taxes received ~~shall will~~ first be applied first to any penalty accrued, then to interest accrued, then to taxes due, unless the Administrator determines in accordance with its written policies that a more equitable method exists for a particular taxfiler's account.

12.720 Interest On Refunds.

When, under a provision of the Business Income Tax Law, taxfilers are entitled to a refund of a portion or all of a tax paid to the Administrator, they ~~shall will~~ receive simple interest on such amount at the rate specified in § 12.710(A), subject to the following:

(A) Any overpayments ~~shall~~will be refunded with interest for each month or fraction thereof for a period beginning four months after the later of:

- (1) the due date of the tax return;
- (2) the date the tax return was filed or the refund was otherwise requested; or
- (3) the date the tax was paid, to the date of the refund; and

(B) Any overpayments of taxes that are the result of an amended return being filed ~~shall~~will be refunded with interest for each month or fraction thereof for the period beginning four months after the date the taxfiler filed the amended return. This subsection ~~shall apply~~iesy to tax returns that are amended due to a change to the federal, state or business income tax return.

12.730 Criminal Penalties.

Violation of §§ 12.230 or 12.240 is punishable, upon conviction thereof, by a fine not exceeding \$500 or by imprisonment for a period not exceeding six months, or by both fine and imprisonment. In addition, any county employee convicted for violation of §§ 12.230 or 12.240 ~~shall~~will be dismissed from employment and ~~shall~~will be barred from employment for a period of five years thereafter. Any agent of the county ~~shall, upon who is convicted, be is~~ ineligible for participation in any county contract for a period of five years thereafter.

12.800-805 Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional or otherwise invalid, that decision ~~shall~~will not affect the validity of the remaining portions of this chapter. The Board of County Commissioners hereby declares that it would have passed each section, subsection, paragraph, sentence, clause or phrase regardless of the fact that any one or more sections, subsections, paragraphs, sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

12.820-815 Operative Date.

This chapter ~~shall apply~~iesy to tax years beginning on or after January 1, 1993. For tax years ending on or before December 31, 1992, this chapter ~~shall apply~~iesy to any administrative determination made on or after January 1, 1994.

12.845-840 Frivolous Filing.

A \$500.00 penalty ~~shall~~will be assessed if a taxfiler takes a "frivolous position" in respect to preparing the taxfiler's tax return. A tax return is considered frivolous if a taxfiler does not provide information on which the substantial correctness of the self-assessment may be judged or if the tax return contains information that on its face indicates that the self-assessment is substantially incorrect. Examples of "frivolous positions" as provided in Oregon Administrative Rule 150-316.992(5) are adopted by direct reference.

12.855-850 Hacking.

(A) **Definitions.** As used in this section, the following definitions apply:

ADMINISTRATOR'S COMPUTER DATABASE. Computer application(s) used by the Administrator to calculate and store business and financial data collected under the authority granted by the Business Income Tax Law.

LOSS. Any reasonable cost incurred by the City of Portland, including but not limited to the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service.

DAMAGE. Any impairment to the integrity or availability of data, a program, a system, or information.

(B) Any individual who intentionally accesses the Administrator's computer database without authorization ~~shall~~ will be fined:

(1) \$500 if the individual acquires any information regarding any business account found in the database;

(2) \$1,000 or the cost of the loss (whichever is greater) if the individual uses or attempts to use the acquired information for financial gain of any kind; or

(3) \$5,000 or the cost of the loss (whichever is greater) if the individual causes the transmission of a program, information, code, or command to the Administrator's computer database, and, as a result of such conduct, causes damage to the database.

12.990 Participation Of Cities.

To facilitate a unified system of collection and allocation of all county and municipal taxes upon business net income within the county, any city the territory of which is in whole or in part within the county may, if authorized by its governing body, participate under and share in the revenue derived from this chapter, upon such terms and conditions as the county and city may agree by written contract.

12.995 Former Regulations Superseded By This Subchapter; Exceptions.

Effective for tax years beginning on or after January 1, 1993, '90 MCC Chapter 5.70 ~~shall be~~ is superseded and given no effect until this chapter is repealed or otherwise ceases to be effective. For tax years ending on or before December 31, 1992, all determinations of obligations and responsibilities required of any persons under '90 MCC Chapter 5.70, made on or before December 31, 1993 ~~shall~~ remains binding upon those persons. However, on and after January 1, 1994, this chapter [formerly §§ 11.500 et seq.] ~~shall apply~~ applies to all determinations of obligations and responsibilities for tax years ending on or before December 31, 1992 with the exceptions of:

(A) Determination of income under '90 MCC 5.70.015;

(B) Treatment of payments to owners or controlling shareholders under '90 MCC 5.70.025;

(C) Net operating loss deduction under '90 MCC 5.70.030;

- (D) Ordinary gain or loss under '90 MCC 5.70.035;
- (E) Rate of tax under '90 MCC 5.70.045;
- (F) Apportionment of income under '90 MCC 5.70.050;
- (G) Partnerships, S corporations, estates and trusts under '90 MCC 5.70.055;
- (H) Exemptions under '90 MCC 5.70.060;
- (I) State laws incorporated by reference under '90 MCC 5.70.075 (except that the City of Portland, Bureau of Licenses will ~~shall~~ replace any references to the state Department of Revenue as the Administrator of the Tax.);
- (J) Amendments under '90 MCC 5.70.110.

FIRST READING:

July 9, 2009

SECOND READING AND ADOPTION:

July 16, 2009

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By Stephanie E. Duvall, Assistant County Attorney

SUBMITTED BY:

Carol M. Ford, Director, Dept of County Management

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1142

Providing Housekeeping Amendments to Multnomah County Code Chapter 12, Business Income Tax

(Language ~~stricken~~ is deleted; double underlined language is new.)

Multnomah County Ordains as follows:

Section 1. MCC Chapter 12 is amended as follows:

12 BUSINESS INCOME TAX

12.005 Title.

This chapter ~~may be~~is known and cited as the Multnomah County Business Income Tax Law.

12.010 Taxes For Revenue.

The Board of the County Commissioners finds it is necessary to raise additional revenues to provide those county services required for the health, safety and welfare of the people of the county. The purpose of the taxes imposed by this chapter is to raise funds to provide those services within the county. All proceeds collected under this chapter ~~shall be~~are general fund revenue. This chapter is intended to establish a unified system for collection and allocation of taxes based upon business net income by the county and by cities within the county.

12.020 Conformity To State Income Tax Laws.

 The Business Income Tax Law ~~shall be~~is construed in conformity with the laws and regulations of the state imposing taxes on or measured by net income as those laws existed for that particular tax year. The Administrator ~~shall have~~ the authority by written policy, to connect to or disconnect from any legislative enactment that deals with income or excise taxation or the definition of income. Should a question arise under the Business Income Tax Law on which this chapter is silent, the Administrator may look to the laws of the State of Oregon for guidance in resolving the question, provided that the determination under state law is not in conflict with any provision of this chapter or the state law is otherwise inapplicable.

12.100 Definitions.

~~For t~~The purpose of this chapter, the terms used in this chapter shall be defined as provided in this chapter or in Administrative Rules, adopted under § 12.210 of this chapter, unless the context requires otherwise.

ADMINISTRATOR. The City of Portland Revenue Bureau along with its employees and agents.

APPEALS BOARD. The hearings body designated by the Board to review taxfiler appeals from final determinations by the Administrator.

BUSINESS. An enterprise, activity, profession or undertaking of any nature, whether related or unrelated, by a person in the pursuit of profit, gain or the production of income, including services performed by an individual for remuneration, but does not include wages earned as an employee.

CONTROLLING SHAREHOLDER. Any person, ~~either~~ alone or together with that person's spouse, parents, and/or children, who, directly or indirectly, owns more than 5% of any class of outstanding stock or securities of the taxfiler. The term **CONTROLLING SHAREHOLDER** may mean the controlling shareholder individually or in the aggregate.

DAY. A calendar day unless otherwise noted.

DIRECTOR. Multnomah County Chief Financial Officer.

DIVISION. The Finance ~~Budget & Tax Office~~ and Risk Management Division of the county.

DOING BUSINESS. To engage in any activity in pursuit of profit or gain, including but not limited to, any transaction involving the holding, sale, rental or lease of property, the manufacture or sale of goods or the sale or rendering of services other than as an employee. Doing business includes activities carried on by a person through officers, agents or employees as well as activities carried on by a person on his or her own behalf.

EMPLOYEE. Any individual who performs services for another individual or organization ~~having the right to control the employee as to the services to be performed and as to the manner of performance and whose compensation is reported by an IRS Form W-2.~~

INCOME. The net income arising from any business, as reportable to the State of Oregon (sState) for personal income, corporation excise, or income tax purposes, before any allocation or apportionment for operation out of state, or deduction for a net operating loss carry-forward or carry-back.

(A) Partnerships, S corporations, limited liability companies, limited liability partnerships, family limited partnerships, estates, trusts and joint ventures (including tenants-in-common arrangements) are liable for the business tax and not the individual partners, shareholders, members, beneficiaries or owners. The income of these entities must include all income received by the entity including ordinary income, interest and dividend income, income from sales of business assets and other income attributable to the entity.

(B) If one or more persons are required or elect to report their income to the sState for corporation excise or income tax purposes or personal income tax purposes in a consolidated, combined or joint return, a single return must be filed by the person filing such return. In such cases, INCOME means the net income of the consolidated, combined or joint group of taxfilers before any allocation or appointment for operation out of the state, or deduction for a net operating loss carrying-forward or carry-back.

(C) The absence of report income to the Internal Revenue Service or the sState does not limit the ability of the Administrator to determine the correct income of the taxfiler through examination under § 12.260 of this chapter.

INDIVIDUAL. A natural person.

NET OPERATING LOSS. The negative taxable income that may result after the deductions allowed by the Business Income Tax Law in determining net income for the tax year.

NONBUSINESS INCOME. Income not created in the course of the taxfiler's business activities.

NOTICE. A written document mailed first class by the Administrator or division to the last known address of a taxfiler as provided to the Administrator or division in the latest tax return on file with the Administrator.

OWNERSHIP OF OUTSTANDING STOCK OR SECURITIES. The incidents of ownership which include the power to vote on the corporation's business affairs or the power to vote for the directors, officers, operators or other managers of the taxfiler.

PERSON. Includes, but is not limited to a natural person, proprietorship, partnership, limited partnership, family limited partnerships, joint venture (including tenants-in-common arrangements), association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.

RECEIVED. The postmark date affixed by the United States postal service if mailed or the date stamp if delivered by hand or sent by facsimile or the receipt date from the online file and pay application confirmation notice.

TAX YEAR. The taxable year of a person for federal or state income tax purposes.

TAXFILER. A person doing business in the county and required to file a return under the Business Income Tax Law.

12.110 Income Defined.

~~For the purpose of this chapter, the following definition shall apply unless the context requires a different meaning.~~

~~**INCOME.** The net income arising from any business, as reportable to the State of Oregon for personal income, corporation excise, or income tax purposes, before any allocation or apportionment for operation out of state, or deduction for a net operating loss carry forward or carry back.~~

~~(A) Partnerships, S corporations, limited liability companies, limited liability partnerships, family limited partnerships, estates, trusts and joint ventures shall be liable for the business tax and not the individual partners, shareholders, members, beneficiaries or owners. The income of these entities shall include all income received by the entity including ordinary income, interest and dividend income, income from sales of business assets and other income attributable to the entity.~~

~~(B) If one or more persons are required or elect to report their income to the state for corporation excise or income tax purposes or personal income tax purposes in a consolidated, combined or joint return, a single return shall be filed by the person filling such return. In such cases, **INCOME** means the net income of the consolidated, combined or joint group of taxfilers before any allocation or apportionment for operation out of the state, or deduction for a net operating loss carrying forward or carry back.~~

~~(C) The absence of report income to the Internal Revenue Service or the state shall not limit the ability of the Administrator to determine the correct income of the taxfiler through examination under § 12.260 of this chapter.~~

12.200 Administration.

(A) The City of Portland, Revenue Bureau ~~shall be~~ the Administrator of record and ~~shall have~~ the authority to administer and enforce this chapter effective January 1, 1994 to include, but not limited to, administrative return processing, auditing, determinations, collection of taxes, penalties and interest (including instituting legal action in any court of competent jurisdiction by or on behalf of the Division or Administrator), protests and appeals that occur on or after January 1, 1994.

(B) The Administrator ~~shall have~~ access to and maintains all tax filings and records, under this chapter, on behalf of the county. The Administrator may, upon request, interpret how this chapter applies, in general or for a certain set of circumstances. Nothing in this chapter ~~shall preclude~~ the informal disposition of controversy by stipulation or agreed settlement, through correspondence or a conference with the Administrator.

12.210 Administrative Authority.

(A) The Administrator may implement procedures, forms, and written policies for administering the provisions of the Business Income Tax Law.

(B) The Administrator may adopt rules relating to matters within the scope of this chapter to administer compliance with the Business Income Tax Law.

(C) Before adopting a new rule, the Administrator ~~shall~~ must hold a public hearing. Prior to the hearing, the Administrator ~~shall~~ will publish a notice in a newspaper of general circulation in the county. The notice ~~shall~~ must be published not less than ten nor more than 30 days before the hearing; ~~and it must.~~ ~~Such notice shall~~ include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed rule, and the location where copies of the full text of the proposed rule may be obtained.

(D) At the public hearing, the Administrator, or designee, ~~shall take~~ will receive oral and written testimony concerning the proposed rule. The Administrator ~~shall~~ will either adopt the proposed rule, modify it, or reject it, taking into consideration the testimony received during the public hearing. If a substantial modification is made, additional public review ~~shall~~ will be conducted, but no additional public notice ~~shall be~~ required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules ~~shall be~~ effective upon adoption by the Administrator. All rules adopted by the Administrator ~~shall~~ will be filed in the division's office. Copies of all current rules ~~shall~~ will be made available to the public upon request.

(E) Notwithstanding subsections (C) and (D), the Administrator may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. Any interim rule adopted pursuant to this subsection ~~shall be~~ effective for a period of not longer than 180 days.

12.220 Presumption Of Doing Business.

A person is presumed to be doing business in the county and subject to this chapter if engaged in any of the following activities:

(A) Advertising or otherwise professing to be doing business within the county;

- (B) Delivering goods or providing services to customers within the county;
- (C) Owning, leasing or renting personal or real property within the county which is used in a trade or business;
- (D) Engaging in any transaction involving the production of income from holding property or the gain from the sale of property, which is not otherwise exempted in this chapter. Property may be personal, including intangible, or real in nature; or
- (E) Engaging in any activity in pursuit of gain which is not otherwise exempted in this chapter.

12.225 Ownership Of Taxfiler Information.

The county ~~shall be~~ the sole owner of all filer information under the authority of this chapter. The Director or the director's designee ~~shall have~~ access to all taxfiler information at all times.

12.230 Confidentiality.

Except as provided in this chapter or otherwise required by law, it ~~shall be~~ unlawful for the division or the Administrator, or any elected official, employee, or agent of the county, or for any person who has acquired information pursuant to § 12.240(A) and (C) to divulge, release, or make known in any manner any financial information submitted or disclosed to the county under the terms of the Business Income Tax Law. Nothing in this section ~~shall should~~ be construed to prohibit:

- (A) The disclosure of the names and addresses of any persons who have a tax account with the Administrator;
- (B) The disclosure of general statistics in a form which would prevent the identification of financial information regarding an individual taxfiler;
- (C) The filing of any legal action by or on behalf of the Division or Administrator to obtain payment on unpaid accounts or the disclosure of information necessary to do so; or
- (D) The assignment to an outside collection agency of any unpaid account balance receivable provided that the Division or Administrator notifies the taxfiler of the unpaid balance at least 60 days prior to the assignment of the claim. Any assignment to an outside collection agency is subject to a reasonable collection fee, above and beyond any amount owed to the County.

12.240 Persons To Whom Information May Be Furnished.

(A) The division or Administrator may disclose and give access to information described in § 12.230 to an authorized representative of the Department of Revenue, State of Oregon, or of any local government of the state imposing taxes upon or measured by gross receipts or net income, for the following purposes:

- (1) To inspect the tax return of any taxfiler;
- (2) To obtain an abstract or copy of the tax return;

- (3) To obtain information concerning any item contained in any return; or
- (4) To obtain information of any financial audit of the tax returns of any taxfiler.

Such disclosure and access ~~shall~~will be granted only if the laws, regulations or practices of such other jurisdiction maintain the confidentiality of such information at least to the extent provided by the Business Income Tax Law.

(B) Upon request of a taxfiler, or authorized representative, the Administrator ~~shall~~will provide copies of any tax return information filed by the tax-filer in the Administrator's possession.

(C) The division or Administrator may also disclose and give access to information described in § 12.230 to:

(1) The County Attorney, his or her assistants and employees, or other legal representatives of the County, to the extent the division deems disclosure or access necessary for the performance of the duties of advising or representing the division.

(2) The City Attorney, his or her assistants and employees, or other legal representatives of the City, to the extent the Administrator deems disclosure or access necessary for the performance of the duties of advising or representing the Administrator, including but not limited to instituting legal actions on unpaid accounts.

(3) Other county employees and agents, to the extent the division deems disclosure or access necessary for such employees or agents to perform their duties under contracts or agreements between the division and any other department, division, agency or subdivision of the county relating to the administration of the Business Income Tax Law.

(4) City of Portland employees, agents and officials of the City, to the extent the Administrator deems disclosure or access necessary for such employees, agents or officials to:

(a) Aid in any legal collection effort on unpaid accounts;

(b) Perform their duties under contracts or agreements between the Administrator and any other department, bureau, agency or subdivision of the City relating to the administration of the Business Income Tax Law; or

(c) Aid in determining whether a Business Income Tax account is in compliance with all City, State and Federal laws or policies.

(D) All employees and agents of the division or county, prior to the performance of duties involving access to financial information submitted to the county under the terms of the Business Income Tax Law, ~~shall~~must be advised in writing of the provision of § 12.730 relating to penalties for the violation of §§ 12.240-230 and 12.255. Such employees and agents ~~shall~~must execute a certificate in a form prescribed by the division, stating that the person has reviewed these provisions of law, has had them explained, and is aware of the penalties for the violation of §§ 12.230, 12.240 and 12.255.

(E) Prior to any disclosures permitted by this section, all persons described in subsection (A), to whom disclosure or access to financial information is given, ~~shall~~must:

(1) Be advised in writing of the provisions of § 12.730 relating to penalties for the violation of § 12.230; and

(2) Execute a certificate in a form prescribed by the division, stating these provisions of law have been reviewed and they are aware of the penalties for the violation of § 12.230.

(F) The director's signature on the certificate, required by subsection (E)(2), ~~shall~~will constitute consent to disclosure to the persons executing the certificate.

12.250 Taxfiler Representation.

No person ~~shall~~will be recognized as representing any taxfiler in regard to any matter relating to the tax of such taxfiler without written authorization of the taxfiler or unless the Administrator determines from other available information the person has authority to represent the taxfiler.

12.255 Representation Restrictions.

(A) No employee or official of the county, the Administrator, any public agency authorized to collect taxes imposed by this chapter, ~~shall~~may represent any taxfiler in any matter before the Administrator. This restriction against taxfiler representation ~~shall~~will continue for two years after termination of employment or official status.

(B) Members of the appeals board ~~shall~~must not represent a taxfiler before the appeals board. No member of the appeals board ~~shall~~may participate in any matter before the board if the appellant is a client of the member or the member's firm.

12.260 Information Request, Examination Of Books, Records Or Persons.

(A) The Administrator may request information or examine any books, papers, records, or memoranda, including state and federal income or excise tax returns, to ascertain the correctness of any tax return or to make an estimate of any tax. The Administrator ~~shall~~has the authority, after notice, to:

(1) Require the attendance of any person required to file a tax return under the Business Income Tax Law, or officers, agents, or other persons with knowledge of the person's business operations, at any reasonable time and place the Administrator may designate;

(2) Take testimony, with or without the power to administer oaths to any person required to be in attendance;

(3) Require proof for the information sought, necessary to carry out the provisions of this chapter; and

(4) Require the property manager of a tenants-in-common arrangement to provide financial information related to the arrangement as well as information regarding the owners, including, but not limited to, the name and last known addresses of the owners.

(B) The Administrator ~~shall~~will designate the employees who ~~shall~~will have the power to administer oaths hereunder. Such employees ~~shall~~must be notaries public of the State of Oregon.

12.270 Records.

Every person required to file a return under the Business Income Tax Law ~~shall~~must keep and preserve for not less than seven years such documents and records, including state and federal income and excise tax returns, accurately supporting the information reported on the taxfiler's return and calculation of tax for each year.

12.280 Deficiencies And Refunds.

(A) Deficiencies may be assessed and refunds granted any time within the period provided under ORS 314.410, 314.415, and 317.950. The Administrator may by agreement with the taxfiler extend such time periods to the same extent as provided by statute.

(B) Consistent with ORS 314.410(3), in cases where no tax return has been filed, there ~~shall be~~is no time limit for a notice of deficiency and/or the assessment of taxes, penalty and interest due.

(C) Notwithstanding subsections (A) and (B), the Administrator is not required to accept any tax return from a taxfiler if:

(1) The Administrator obtains a money judgment against the taxfiler for failure to pay an unpaid account balance due; and

(2) The Administrator or its designee lawfully served the taxfiler with the lawsuit pursuant to the Oregon Rules of Civil Procedure; and

(3) The tax return is for a taxable year that is the subject of the general money judgment; and

(4) The Administrator gave written notice stating that the taxfiler had an outstanding balance due at least ~~60~~30 days before the Administrator (or its designee) filed a lawsuit for those particular taxable years.

12.290 Protests And Appeals.

(A) Any determination by the Administrator may be protested by the taxfiler. Written notice of the protest must be received by the Administrator within 30 days after the Administrator mailed or delivered the notice of determination ~~was mailed or delivered to the taxfiler~~. The protest ~~shall~~must state the name and address of the taxfiler and an explanation of the grounds for the protest. The Administrator ~~shall~~must respond within 30 days after the protest is filed ~~with the Administrator~~ with either a revised determination or a final determination. The Administrator's determination ~~shall~~must include the reasons for the determination and state the time and manner for appealing the determination. The time to file a protest or the time for the Administrator's response may be extended by the Administrator, for good cause. Requests for extensions of time must be received prior to the expiration of the original 30-day protest deadline. Written notice ~~shall~~will be given to the taxfiler if the Administrator's deadline is extended.

(B) Any final determination by the Administrator may be appealed by the taxfiler to the appeals board. Written notice of the appeal must be received by the Administrator within 30 days after the Administrator mailed or delivered the final determination ~~was mailed or delivered to the appellant~~. The notice of appeal ~~shall~~must state the name and address of the appellant and include a copy of the final determination.

(C) Within 90 days after the Administrator mails or delivers the final determination was mailed or delivered to the taxfilerappellant, the appellant shall must file with the appeals board a written statement containing:

- (1) The reasons the Administrator's determination is incorrect; and
- (2) What the correct determination should be.

Failure to file such a written statement within the time permitted shall will be deemed a waiver of any objections, and the appeal shall will be dismissed.

(D) Within 150 days after the Administrator mails or delivers the final determination was mailed or delivered to the taxfilerappellant, the Administrator shall will file with the appeals board a written response to the appellant's statement. A copy of the Administrator's response shall must be promptly mailed to the address provided by the appellant within 10 days.

(E) The Administrator must provide the appellant shall be given not less than 14 days prior written notice of the hearing date and location at least 14 days prior to the hearing. The appellant and the Administrator shall have the opportunity to may present relevant testimony and oral argument at the hearing. The appeals board may request such additional written comment and documents as it deems appropriate.

(F) Decisions of the appeals board shall must be in writing, state the basis for the decision and be signed by the appeals board chair.

(G) The decision of the appeals board shall be final on as of the date it is issue date and no further administrative appeal shall will be provided.

(H) The filing of an appeal with the appeals board shall temporarily suspend the obligation to pay any tax that is the subject of the appeal pending a final decision by the appeals board.

(I) Penalty waiver and/or reduction requests are not subject to the protest/appeal process or timeline outlined in Sections 12.290(A) through 12.290(H). The taxfiler must file a written request with the Administrator detailing why a penalty should be waived within 30 days of receipt of a billing notice that assesses a penalty. The Administrator must respond to requests to reduce and/or waive penalties within 60 days from the date the written request is received. As provided in Section 12.700(G), the Administrator may waive or reduce penalties in certain situations. If the taxfiler has requested that penalties be waived and the Administrator denies the taxfiler's request for this discretionary waiver of penalties, the taxfiler may request a conference with the Administrator (or Administrator's designee) within 30 days of the date of the Administrator's notice of denial. If the conference with the Administrator results in a denial of the penalty waiver request, that decision is final and may not be appealed to the Appeals Board.

~~until the taxfiler receives written notice from the Administrator that the taxfiler's request was either denied or only approved in part. The Administrator shall respond to requests to reduce and/or waive late and/or underpayment penalties within 60 days from the date that the written request is received by the Administrator.~~

12.400 Exemptions.

The Administrator may require the filings of tax returns or other documentary verification of any exemption claimed under this section. To the extent set forth below, the following persons or incomes are exempt from payment of tax requirements imposed by the Bbusiness Iincome Ttax Law;

(A) Persons whom the county is prohibited from taxing under the Constitution or laws of the United States or the Constitution or laws of the State of Oregon or County Charter.

(B) Income arising from transactions which the county is prohibited from taxing under the Constitution or the laws of the United States or the Constitution or laws of the State of Oregon or County Charter.

(C) Persons whose gross receipts from all business, both within and without the county, amount to less than \$50,000 (\$25,000 for tax years that begin prior to January 1, 2008). The Administrator may demand a statement that the person's gross receipts for any tax year were less than the stated exemption amount for the tax year for which exemption is claimed.

(D) Corporations exempt from the State of Oregon Corporation Excise Tax under ORS 317.080, provided that any such corporation subject to the tax on unrelated business income under ORS 317.920 to 317.930 ~~shall~~must pay a tax based solely on such income.

(E) Trusts exempt from federal income tax under Internal Revenue Code Section 501, provided that any exempt trust subject to tax on unrelated business income and certain other activities under Internal Revenue Code Section 501(b) ~~shall beare~~ subject to the tax under this chapter based solely on that income.

(F) Any individual whose only business transactions are exclusively limited to the renting or leasing of residential real property dwelling units provided that the beneficial owner rents or leases less than ten total units, regardless of whether the units are located inside or outside of the County. For purposes of this subsection, payments to foster care and other service providers ~~shall beare~~ considered payments for "services" and not for "rent". If a building contains more than one residential living quarter, the term "dwelling unit" refers to each separate living quarter. This exemption does not apply if any income is recognized from the sale of residential property.

(G) Income of an individual from:

- (1) Sales, exchanges or involuntary conversions of a primary or secondary residence;
- (2) Sale of personal property acquired for household or other personal use by the seller;
- (3) Interest and dividend income earned from investments, if the income is not created in the course of or related to the taxfiler's business activities; and
- (4) Gains and losses incurred from the sale of investments (other than real property) that are not a part of a business.

(H) Any person whose only business transactions are exclusively limited to the following activities:

- (1) Raising, harvesting and selling of the person's own crops, or the feeding, breeding, management and sale of the person's own livestock, poultry, furbearing animals or honeybees, or sale of the produce thereof, or any other agricultural, horticultural or animal husbandry activity carried on by any person on the person's own behalf and not for others, or dairying and the sale of dairy products to processors. This exemption ~~shall does~~ not apply if, in addition to the farm activities described in this subsection, the person does any processing of the person's own farm products which changes their character or form, or the person's business includes the handling, preparation, storage, processing or marketing of farm products raised or produced by others; or the processing of milk or milk products whether produced by said person or by others for retail or wholesale distribution.

(2) Operating within a permanent structure a display space, booth or table for selling or displaying merchandise by an affiliated participant at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any tax year.

12.500 Imposition And Rate Of Tax.

(A) Except as otherwise provided in this chapter, a tax is imposed upon each person doing business within the county equal to 1.45% of the net income from the business within the county effective with tax years beginning on or after January 1, 1993. For tax years beginning on or after January 1, 2008 each taxfiler not otherwise exempt ~~shall~~ must determine their tax at the rate established in this section, provided that each ~~shall~~ must pay at least a minimum tax of \$100.00.

(B) The payment of a tax required hereunder and the acceptance of such tax ~~shall~~ does not entitle a taxfiler to carry on any business not in compliance with all the requirements of this code and all other applicable laws.

~~(C) For the business year beginning on or after January 1, 1998, if the tax imposed by this section exceeds \$100, each person doing business within Multnomah County shall pay, in addition, a Temporary Education Surcharge equal to one half percent (.50%) of the net income from the business within the County. This surcharge shall be in effect only for 1998 and shall not apply to business years beginning on or after January 1, 1999.~~

~~(D) The receipts from the surcharge imposed by subsection (C) shall be used only to benefit public schools in Multnomah County. Receipts from the Temporary Educational BIT surcharge shall only be used to maintain or reduce class size by preventing teacher layoffs in FY 1998-99. The public school districts with projected budget shortfalls in FY 98-99 shall only spend surcharge revenues to pay for salaries of teacher positions or other state certified personnel, which would otherwise be eliminated. To be eligible for BIT surcharge funds, school districts with projected budget shortfalls in FY 98-99 shall submit a list of positions for state certified positions subject to elimination from the budget and their accompanying salary, to Multnomah County no later than May 30, 1998. Districts without budget shortfalls in FY 98-99 shall submit a list of additional teaching positions and other staff certified positions and materials directly related to instruction. Multnomah County will allocate the BIT surcharge revenues to each public school to pay for teacher positions or other state certified positions, based upon the list submitted by each school district.~~

~~(E) The Temporary Education Surcharge receipts shall be distributed to every public school district in Multnomah County according to a formula approved by the Board of County Commissioners.~~

12.510 Return Due Date.

(A) Tax returns ~~shall~~ must be on forms provided or approved by the Administrator. All tax returns ~~shall~~ must be filed, together with the specified tax by the fifteenth day of the fourth month following the end of the tax year.

(B) The Administrator may, for good cause, grant extensions for filing returns, except that no extension may be granted for more than six months beyond the initial due date. This extension does not extend the time to pay the tax.

(C) The tax return ~~shall~~ must contain a written declaration, verified by the taxfiler, to the effect that the statements made therein are true.

(D) The Administrator ~~shall will~~ prepare blank tax returns and make them available upon request. Failure to receive or secure a form ~~shall does~~ not relieve any person from the obligation to pay a tax under the Business Income Tax Law.

12.520 Quarterly Estimates.

For tax years beginning on or after January 1, 1993, every taxfiler who incurred a tax liability, under § 12.500 of \$1,000 or greater ~~shall must~~ estimate the taxfiler's tax liability for the current tax year under this chapter and pay the amount of tax determined as provided in § 12.530.

12.530 Schedule For Payment Of Estimated Tax.

A taxfiler required under § 12.520 of this chapter to make payments of estimated tax ~~shall must~~ make the payments in installments as follows:

(A) One quarter or more of the estimated tax on or before the fifteenth day of the fourth month of the tax year;

(B) One quarter or more of the estimated tax on or before the fifteenth day of the sixth month of the tax year;

(C) One quarter or more of the estimated tax on or before the fifteenth day of the ninth month of the tax year; and

(D) The balance of the estimated tax ~~shall must~~ be paid on or before the fifteenth day of the twelfth month of the tax year.

(E) Any payment of the estimated tax received by the Administrator for which the taxfiler has made no designation of the quarterly installment to which the payment is to be applied, ~~shall will~~ first be applied to underpayments of estimated tax due for any prior quarter of the tax year. Any excess amount ~~shall will~~ be applied to the installment that next becomes due after the payment was received.

12.545 Tax Return.

Each tax return must be accompanied by a tax payment at the rate established in Section 12.500, provided that each such tax return must be accompanied by a minimum tax of \$100. The minimum payment may have previously been paid by quarterly payments, an extension payment, or credit available from a prior tax year.

12.550 Presumptive Tax.

(A) If a person fails to file a return, a rebuttable presumption ~~shall exists~~ that the tax payable amounts to \$500 for every tax year for which a return has not been filed.

(B) Nothing in this section ~~shall prevents~~ the Administrator from assessing a tax due which is less than or greater than \$500 per tax year.

(C) If the taxfiler filed a tax return the previous tax year, then presumptive taxes assessed under this subsection ~~shall will~~ be considered a tax return. Presumptive taxes assessed under this subsection ~~shall beare~~ considered filed documents and ~~shall beare~~ subject to the time limitations for deficiencies and refunds as described in subsection 12.280.

(D) Taxes determined under this subsection ~~shall be assessed and are~~ subject to penalties and interest from the date the taxes should have been paid as provided in subsection 12.510 in accordance with subsections 12.700 and 12.710. The Administrator ~~shall will~~ send notice of the determination and assessment to the ~~person doing business in the County taxfiler~~.

12.560 Payment Plan Fee.

If a person fails to pay the Multnomah County Business Income tax when due, the Administrator may establish a payment plan pursuant to written policy. The Administrator may charge a set up fee for each payment plan established.

12.600 Income Determinations.

(A) *Owners compensation deduction.* **OWNERS COMPENSATION DEDUCTION** is defined as the additional deduction allowed in subsections (B), (C) and (D) below.

(1) ~~For tax years beginning prior to January 1, 1999, the owner's compensation deduction as defined in this section cannot exceed \$50,000 per owner.~~

~~(2) For tax years beginning on or after January 1, 1999, the owners compensation deduction will be indexed by the Consumer Price Index - All Urban Consumers (CPI-U) U.S. City Average as published by the U.S. Department of Labor, Bureau of Labor Statistics, using the September to September index, not seasonally adjusted (unadjusted index). The initial index will be the September 1998 to September 1999 index. The Administrator will determine the exact deduction amount and publishes the amount on forms. Any increase or decrease under this subsection which is not a multiple of \$500 shall will be rounded up or down to the next multiple of \$500 at the Administrator's discretion.~~

(32) For tax years beginning on or after January 1, 2008, the owners compensation deduction cannot exceed \$80,000 plus CPI-U for September 2007 to September 2008 per owner as defined in Sections (B), (C) and (D) below.

(43) For tax years beginning on or after January 1, 2009, the owners compensation deduction will be indexed as described in (21) above.

(B) *Sole proprietorship.* In determining income, no deductions ~~shall beis~~ allowed for any compensation for services rendered by, or interest paid to, owners. However, 75% of income determined without such deductions ~~shall beis~~ allowed as an additional deduction, not to exceed the amount per owner as determined in subsection (A) above.

(C) *Partnerships.* In determining income, no deduction ~~shall beis~~ allowed for any compensation for services rendered by, or interest paid to, owners of partnerships, limited partnerships, limited liability companies, limited liability partnerships or family limited partnerships. Guaranteed payments to partners or members ~~shall beare~~ deemed compensation paid to owners for services rendered. However:

(1) For general partners or members, 75% of income determined without such deductions ~~shall be~~ allowed as an additional deduction, not to exceed the amount ~~per general partner or member~~ as determined in subsection (A) above per general partner or member.

(2) For limited partners or members of limited liability corporations who are deemed partners by administrative rule or policy, 75% of income determined without such deductions ~~shall be~~ allowed as an additional deduction, not to exceed the lesser of actual compensation and interest paid or the amount determined in subsection (A) above per compensated limited partner.

(D) *Corporations.* In determining income, no deduction ~~shall be~~ allowed for any compensation for services rendered by, or interest paid to, controlling shareholders of any corporation, including, but not limited to C and S corporations and any other entity electing treatment as a corporation, either C or S. However, 75% of the corporation's income, determined without deduction of compensation or interest, ~~shall be~~ allowed as a deduction in addition to any other allowable deductions, not to exceed the lesser of the actual compensation and interest paid or the amount for each controlling shareholder as determined in subsection (A) above.

(1) For purposes of this subsection, to calculate the compensation for services rendered by or interest paid to controlling shareholders that must be added back to income, wages, salaries, fees, or interest paid to all persons meeting the definition of a controlling shareholder, must be included.

(2) For purposes of this subsection, in determining the number of controlling shareholders, a controlling shareholder and that person's spouse, parents and children count as one owner, unless such spouse, parent or child individually own more than 5% ownership of outstanding stock or securities in their own name. In that case, each spouse, parent or child who owns more than 5% of stock ~~shall be~~ deemed to be an additional controlling shareholder.

(3) For purposes of this subsection (C), joint ownership of outstanding stock or securities ~~shall be~~ not be considered separate ownership.

(E) *Estates and trusts.* In determining income for estates and trusts, income ~~shall be~~ measured before distribution of profits to beneficiaries. No additional deduction ~~shall be~~ allowed.

(F) *Nonbusiness income.* In determining income under this section, an allocation ~~shall be~~ allowed for nonbusiness income as reported to the State of Oregon. However, income treated as nonbusiness income for State of Oregon tax purposes may not necessarily be defined as nonbusiness income under the Business Income Tax Law. Interest and dividend income, rental income or losses from real and personal business property, and gains or losses on sales of property or investments owned by a trade or business ~~shall be~~ treated as business income for purposes of the Business Income Tax Law. Income derived from non-unitary business functions reported at the state level may be considered nonbusiness income. Non-unitary income will not be recognized at an intrastate level. The taxfiler ~~shall have~~ the burden of showing that income is nonbusiness income.

(G) *Tax based on or measured by net income.* In determining income, no deduction ~~shall be~~ allowed for taxes based on or measured by net income. No deduction ~~shall be~~ allowed for the federal built-in gains tax.

(H) *Ordinary gain or loss.* In determining income, gain or loss from the sale, exchange or involuntary conversion of real property or tangible and intangible personal property not exempt under § 12.400(G) and § 12.400(H) ~~shall~~ must be included as ordinary gain or loss.

(I) *Net operating loss.* In determining income, a deduction ~~shall be~~ allowed equal to the aggregate of the net operating losses incurred in prior years, not to exceed 75% of the income determined

for the current tax year before this deduction but after all other deductions from income allowed by this section and apportioned for business activity both within and without the county.

(1) When the operations of the taxfiler from doing business both within and without the county result in a net operating loss, such loss ~~shall~~will be apportioned in the same manner as the net income under § 12.600. However, in no case ~~shall~~may a net operating loss be carried forward from any tax year during which the taxfiler conducted no business within the county or the taxfiler was otherwise exempt from tax filing requirements.

(2) In computing the net operating loss for any tax year, the net operating loss of a prior tax year ~~shall~~is not ~~be~~ allowed as a deduction.

(3) In computing the net operating loss for any tax year, no compensation allowance deduction ~~shall~~be allowed to increase the net operating loss. **COMPENSATION ALLOWANCE DEDUCTION** is defined as the additional deduction allowed by subsection (A).

(4) The net operating loss of the earliest tax year available ~~shall~~must be exhausted before a net operating loss from a later tax year may be deducted.

(5) The net operating loss in any tax year ~~shall~~be allowed as a deduction in any of the five succeeding tax years until used or expired. Any partial tax year ~~shall~~will be treated the same as a full tax year in determining the appropriate carry-forward period.

12.610 Apportionment Of Income.

(A) Business activity means any of the elements of doing business. However, a person ~~shall~~is not be considered to have engaged in business activities solely by reason of sales of tangible personal property in any state or political subdivision, or solely the solicitation of orders for sales of tangible personal property in any state or political subdivision. Business activities conducted on behalf of a person by independent contractors are not considered business activities by the person in any state or political subdivision.

(B) ~~Any~~In computing the tax, taxfilers ~~that have~~ing income from business activity both within and without the county ~~shall~~in computing the tax, must determine the income apportioned to the county by multiplying the total net income from the taxfiler's business by a fraction, the numerator of which is the total gross income of the taxfiler from business activity in the county during the tax year, and the denominator of which is the total gross income of the taxfiler from business activity everywhere during the tax year.

(C) In determining the apportionment of gross income within the county under subsection (B):

(1) Sales of tangible personal property ~~shall~~be deemed to take place in the county if the property is delivered or shipped to a purchaser within the county regardless of the f.o.b. point or other conditions of sale. Sales of tangible personal property shipped from the county to a purchaser located where the taxfiler is not taxable ~~shall~~are not ~~be~~ apportioned to the county.

(2) Sales other than sales of tangible personal property ~~shall~~be deemed to take place in the county, if the income producing activity is performed in the county ~~or the income producing activity is performed both in and outside the county and a greater portion of the income producing activity is performed in the county than outside the county based on costs of performance.~~

(D) Certain industries or incomes ~~shall be~~ subject to specific apportionment ~~or allocation~~ methodologies. Such methodologies ~~shall be~~ described in administrative rules adopted in accordance with § 12.210. Industry specific or income specific apportionment methodologies required by Oregon Revised Statutes for apportionment of gross sales shall will be used in cases where no rule has been adopted by the Administrator regarding the apportionment of such industry or income. When gross sales as reported to Oregon are used for apportionment purposes, such gross sales will be defined as gross income for apportionment purposes herein. All apportionment methodologies directed under this subsection will be a single factor gross income apportionment as directed under § 12.210 (B) and § 12.210 (C). In those specific cases where the state has directed allocation of income, such income ~~shall will~~ be apportioned for purposes of this chapter, unless allocation is otherwise allowed in this chapter.

(E) If the apportionment provisions of subsection (B) do not fairly represent the extent of the taxfiler's business activity in the county and result in the violation of the taxfiler's rights under the Constitution of this state or the United States, the taxfiler may petition the Administrator to permit the taxfiler to:

- (1) Utilize the method of allocation and apportionment used by the taxfiler under the applicable laws of the state imposing taxes upon or measured by net income; or
- (2) Utilize any other method to effectuate an equitable apportionment of the taxfiler's income.

12.620 Changes To Federal Or State Tax Returns.

(A) If a taxfiler's reported net income under applicable state laws imposing a tax on or measured by income is changed by the Federal Internal Revenue Service or the state Department of Revenue, or amended by the taxfiler to correct an error in the original federal or state return, a report of such change ~~shall must~~ be filed with the Administrator within 60 days after the date of the notice of the final determination of change or after an amended return is filed with the federal or state agencies. The report ~~shall must~~ be accompanied by an amended tax return with respect to such income and by any additional tax, penalty, and interest due.

(B) The Administrator may assess deficiencies and grant funds resulting from changes to federal, state or business income tax returns within the time periods provided for in § 12.280 of this chapter, treating the report of change in federal, state or business income tax returns as the filing of an amended tax return.

(C) The Administrator may assess penalties and interest on the additional tax due as provided in §§ 12.700 (A) and 12.710 or may refuse to grant a refund of taxes as a result of the amended return if the amended return is not filed with the Administrator within the time limits set forth in subsection (A).

12.700 Penalty.

- (A) (1) A penalty ~~shall will~~ be assessed if a person:
 - (a) Fails to file a tax return or extension request at the time required under §§ 12.510(A) or 12.620(A); or
 - (b) Fails to pay a tax when due.
- (2) The penalty under subsection (A) ~~shall be calculated as:~~

(a) Five percent of the total tax liability if the failure is for a period less than four months;

(b) An additional penalty of 20% of the total tax liability if the failure is for a period of four months or more; and

(c) An additional penalty of 100% of the total tax liability of all tax years if the failure to file is for three or more consecutive tax years.

(B) (1) A penalty ~~shall~~will be assessed if a person who has filed an extension request:

(a) Fails to file a tax return by the extended due date; or

(b) Fails to pay the tax liability by the extended due date.

(2) The penalty under subsection (B) ~~shall be calculated as~~:

(a) Five percent of the total tax liability if the failure is for a period of less than four months; and

(b) An additional penalty of 20% of the total tax liability if the failure is for a period of four months or more.

(C) (1) A penalty ~~shall~~will be assessed if a person:

(a) Fails to pay at least 90% of the total tax liability by the original due date;
or

(b) Fails to pay at least 100% of the prior year's total tax liability by the original due date.

(2) The penalty under subsection (C) ~~shall be calculated as~~ 5% of the tax underpayment, but not less than \$5.

(D) The Administrator may impose a civil penalty of up to \$500 for each of the following violations of this chapter:

(1) Failure to file any tax return within 60 days of the Administrator's original written notice to file; or

(2) Failure to pay any tax within 60 days of the Administrator's original written notice for payment; or

(3) Failure to provide either documents or information as required by §§ 12.260 within 60 days of the Administrator's original written notice to provide the documents or information; or

(4) Failure to fully complete any form required under this chapter.

(E) The Administrator may impose a civil penalty under subsection (D) only if the Administrator gave notice of the potential for assessment of civil penalties for failure to comply or respond in the original written notice.

(F) The Administrator may waive or reduce any penalty determined under subsections (A) through (D) for good cause, according to and consistent with written policies.

12.710 Interest.

(A) Interest ~~shall will~~ be ~~collected assessed~~ on any unpaid tax at the rate of .833% simple interest per month or fraction thereof (10% per annum), computed from the original due date of the tax to the fifteenth day of the month following the date of payment.

(B) Interest ~~shall will~~ be ~~collected assessed~~ on any unpaid or underpaid quarterly estimated payment required by §§ 12.520 and 12.530 at the rate of .833% simple interest per month or fraction thereof (10% per annum), computed from the due date of each quarterly estimated payment to the original due date of the tax return to which the estimated payments apply.

(C) Notwithstanding subsection (B), there ~~shall be~~ is no interest on underpayment of quarterly estimated payments if:

(1) The total tax liability of the prior tax year was less than \$1,000;

(2) An amount equal to at least 90% of the total tax liability for the current tax year was paid in accordance with § 12.530; or

(3) An amount equal to at least 100% of the prior year's total tax liability was paid in accordance with § 12.530.

(D) For purposes of subsection (B), the amount of underpayment is determined by comparing 90% of the current total tax liability amount to quarterly estimated payments made prior to the original due date of the tax return. However, if 100% of the prior year's total tax liability is paid to the Administrator by the due date of the fourth quarterly payment, the Administrator may use the prior year's tax liability if doing so will reduce the amount of interest owed.

(E) For purposes of subsection (A), the amount of tax due on the tax return ~~shall will~~ be reduced by the amount of any tax payment made on or before the date for payment of the tax in accordance with § 12.510(A) or 12.530.

(F) Interest at the rate specified in subsection (A) ~~shall accrues~~ from the original due date without regard to any extension of the filing date.

(G) Any interest amounts properly assessed in accordance with this section may not be waived or reduced by the Administrator, unless specifically provided for by written policy.

12.715 Payments Applied.

Taxes received ~~shall will~~ first be applied first to any penalty accrued, then to interest accrued, then to taxes due, unless the Administrator determines in accordance with its written policies that a more equitable method exists for a particular taxfiler's account.

12.720 Interest On Refunds.

When, under a provision of the Business Income Tax Law, taxfilers are entitled to a refund of a portion or all of a tax paid to the Administrator, they ~~shall will~~ receive simple interest on such amount at the rate specified in § 12.710(A), subject to the following:

(A) Any overpayments ~~shall~~will be refunded with interest for each month or fraction thereof for a period beginning four months after the later of:

- (1) the due date of the tax return;
- (2) the date the tax return was filed or the refund was otherwise requested; or
- (3) the date the tax was paid, to the date of the refund; and

(B) Any overpayments of taxes that are the result of an amended return being filed ~~shall~~will be refunded with interest for each month or fraction thereof for the period beginning four months after the date the taxfiler filed the amended return. This subsection ~~shall apply~~iesy to tax returns that are amended due to a change to the federal, state or business income tax return.

12.730 Criminal Penalties.

Violation of §§ 12.230 or 12.240 is punishable, upon conviction thereof, by a fine not exceeding \$500 or by imprisonment for a period not exceeding six months, or by both fine and imprisonment. In addition, any county employee convicted for violation of §§ 12.230 or 12.240 ~~shall~~will be dismissed from employment and ~~shall~~will be barred from employment for a period of five years thereafter. Any agent of the county ~~shall, upon who is convicted, be is~~ ineligible for participation in any county contract for a period of five years thereafter.

12.800-805 Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional or otherwise invalid, that decision ~~shall~~will not affect the validity of the remaining portions of this chapter. The Board of County Commissioners hereby declares that it would have passed each section, subsection, paragraph, sentence, clause or phrase regardless of the fact that any one or more sections, subsections, paragraphs, sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

12.820-815 Operative Date.

This chapter ~~shall apply~~iesy to tax years beginning on or after January 1, 1993. For tax years ending on or before December 31, 1992, this chapter ~~shall apply~~iesy to any administrative determination made on or after January 1, 1994.

12.845-840 Frivolous Filing.

A \$500.00 penalty ~~shall~~will be assessed if a taxfiler takes a "frivolous position" in respect to preparing the taxfiler's tax return. A tax return is considered frivolous if a taxfiler does not provide information on which the substantial correctness of the self-assessment may be judged or if the tax return contains information that on its face indicates that the self-assessment is substantially incorrect. Examples of "frivolous positions" as provided in Oregon Administrative Rule 150-316.992(5) are adopted by direct reference.

12.855-850 Hacking.

(A) **Definitions.** As used in this section, the following definitions apply:

ADMINISTRATOR'S COMPUTER DATABASE. Computer application(s) used by the Administrator to calculate and store business and financial data collected under the authority granted by the Business Income Tax Law.

LOSS. Any reasonable cost incurred by the City of Portland, including but not limited to the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service.

DAMAGE. Any impairment to the integrity or availability of data, a program, a system, or information.

(B) Any individual who intentionally accesses the Administrator's computer database without authorization ~~shall~~ will be fined:

(1) \$500 if the individual acquires any information regarding any business account found in the database;

(2) \$1,000 or the cost of the loss (whichever is greater) if the individual uses or attempts to use the acquired information for financial gain of any kind; or

(3) \$5,000 or the cost of the loss (whichever is greater) if the individual causes the transmission of a program, information, code, or command to the Administrator's computer database, and, as a result of such conduct, causes damage to the database.

12.990 Participation Of Cities.

To facilitate a unified system of collection and allocation of all county and municipal taxes upon business net income within the county, any city the territory of which is in whole or in part within the county may, if authorized by its governing body, participate under and share in the revenue derived from this chapter, upon such terms and conditions as the county and city may agree by written contract.

12.995 Former Regulations Superseded By This Subchapter; Exceptions.

Effective for tax years beginning on or after January 1, 1993, '90 MCC Chapter 5.70 ~~shall be~~ is superseded and given no effect until this chapter is repealed or otherwise ceases to be effective. For tax years ending on or before December 31, 1992, all determinations of obligations and responsibilities required of any persons under '90 MCC Chapter 5.70, made on or before December 31, 1993 ~~shall~~ remains binding upon those persons. However, on and after January 1, 1994, this chapter [formerly §§ 11.500 et seq.] ~~shall apply~~ applies to all determinations of obligations and responsibilities for tax years ending on or before December 31, 1992 with the exceptions of:

(A) Determination of income under '90 MCC 5.70.015;

(B) Treatment of payments to owners or controlling shareholders under '90 MCC 5.70.025;

(C) Net operating loss deduction under '90 MCC 5.70.030;

- (D) Ordinary gain or loss under '90 MCC 5.70.035;
- (E) Rate of tax under '90 MCC 5.70.045;
- (F) Apportionment of income under '90 MCC 5.70.050;
- (G) Partnerships, S corporations, estates and trusts under '90 MCC 5.70.055;
- (H) Exemptions under '90 MCC 5.70.060;
- (I) State laws incorporated by reference under '90 MCC 5.70.075 (except that the City of Portland, Bureau of Licenses will ~~shall~~ replace any references to the state Department of Revenue as the Administrator of the Tax.);
- (J) Amendments under '90 MCC 5.70.110.

FIRST READING:

July 9, 2009

SECOND READING AND ADOPTION:

July 16, 2009



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

[Signature]
Fed Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By *[Signature]*
Stephanie E. Duvall, Assistant County Attorney

SUBMITTED BY:

Carol M. Ford, Director, Dept of County Management