

ANNOTATED MINUTES

*Thursday, October 27, 1994 - 9:30 AM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland*

REGULAR MEETING

Chair Beverly Stein convened the meeting at 9:32 a.m., with Vice-Chair Tanya Collier, Commissioners Sharron Kelley, Gary Hansen and Dan Saltzman present.

CONSENT CALENDAR

UPON MOTION OF COMMISSIONER HANSEN, SECONDED BY COMMISSIONER KELLEY, THE CONSENT CALENDAR (ITEMS C-1 THROUGH C-4) WAS UNANIMOUSLY APPROVED.

COMMUNITY AND FAMILY SERVICES DIVISION

- C-1 Ratification of Intergovernmental Agreement Contract 103535 Between Multnomah County and the City of Gresham, to Administer Gresham Community Development Block Grant (CDBG) Funds for Transitional Housing Services, Bilingual Case Management Services, and an Emergency Housing Voucher Program, for the Period July 1, 1994 through June 30, 1995*
- C-2 Ratification of Intergovernmental Agreement Contract 103755 Between the City of Portland and Multnomah County, Providing Payment to the County for Verifying the Eligibility of Low Income Households for the City's Water/Sewer Bill Discount Program, for the Period August 31, 1994 through June 30, 1995*

DEPARTMENT OF ENVIRONMENTAL SERVICES

- C-3 ORDER in the Matter of the Execution of Deed D951106 Upon Complete Performance of a Contract to Greater Mt. Calvary Church of God*

94-206.

- C-4 ORDER in the Matter of the Execution of Deed D951108 for Certain Tax Acquired Property to the Estate of Frank T. Damis, Charles D. Damis, Conservator*

94-207.

REGULAR AGENDA

COMMUNITY AND FAMILY SERVICES DIVISION

- R-1 *Ratification of Amendment No. 1 to Intergovernmental Agreement Contract 100535 Between Multnomah County and Portland Community College, Portland Employment Project, Adding State Funds to Provide Services for Developmental Disabilities Program Clients Participating in the Local Solutions Project, for the Period July 1, 1994 through June 30, 1995*

COMMISSIONER KELLEY MOVED AND COMMISSIONER COLLIER SECONDED, APPROVAL OF R-1. COMMISSIONER SALTZMAN ADVISED HE WOULD ABSTAIN FROM VOTING DUE TO HIS POSITION ON THE PCC BOARD. AGREEMENT APPROVED, WITH COMMISSIONERS KELLEY, HANSEN, COLLIER AND STEIN VOTING AYE AND COMMISSIONER SALTZMAN ABSTAINING.

NON-DEPARTMENTAL

- R-2 *Consideration on Whether to Hold a Hearing to Accept Evidence and Argument, or Decide Appeal on the Record, in the Matter of the Appeal of Lydia Mann from Hearings Officer Decision Revoking Appellant's Adult Care Home License*

CITY ATTORNEY PETE KASTING, LEGAL COUNSEL FOR THE BOARD OF COMMISSIONERS, EXPLAINED THE PARTIES HAVE REQUESTED THAT THE BOARD DECIDE THIS MATTER ON THE RECORD AND ADVISED THE HEARINGS OFFICER RECORD WOULD BE DELIVERED TO THE OFFICE OF THE BOARD CLERK AND BE AVAILABLE THERE FOR BOARD INSPECTION. AT THE RECOMMENDATION OF CHAIR STEIN AND UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER COLLIER, IT WAS UNANIMOUSLY APPROVED THAT CONSIDERATION OF THIS ITEM BE CONTINUED TO TUESDAY, NOVEMBER 22, 1994.

DEPARTMENT OF HEALTH

- R-4 *Second Reading and Possible Adoption of a Proposed ORDINANCE to Provide Fee Schedule Changes for the Environmental Health Section of the Department of Health*

PROPOSED ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER COLLIER MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF THE SECOND READING AND ADOPTION. NO ONE WISHED TO TESTIFY.

ORDINANCE 803 UNANIMOUSLY APPROVED.

- R-5 *Ratification of Intergovernmental Agreement Contract 201095 Between Multnomah County, on Behalf of CareOregon, and Oregon Health Sciences University, Providing Physician Services While CareOregon Clients are Patients at Oregon Health Sciences University*

COMMISSIONER HANSEN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-5. DR. GARY OXMAN EXPLANATION. AGREEMENT UNANIMOUSLY APPROVED.

SHERIFF'S OFFICE

- R-6 *Ratification of Intergovernmental Agreement Contract 800485 Between Multnomah County and Metro, Allowing Metro the Use of County's Law Enforcement Aircraft and Personnel for Aerial Surveillance Services at an Established Hourly Rate*

UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER HANSEN, R-6 WAS UNANIMOUSLY APPROVED.

PUBLIC CONTRACT REVIEW BOARD

(Recess as the Board of County Commissioners and convene as the Public Contract Review Board)

- R-8 *ORDER in the Matter of Exempting from Public Bidding a Contract with Electric Light Wave for the Provision of Telecommunications T-1 Service*

COMMISSIONER KELLEY MOVED AND COMMISSIONER SALTZMAN SECONDED, APPROVAL OF R-8. ROGER BRUNO, BRIAN FOWLES AND JIM MUNZ EXPLANATION AND RESPONSE TO BOARD QUESTIONS. ORDER 94-208 UNANIMOUSLY APPROVED.

- R-9 *ORDER in the Matter of Exempting from Public Bidding the Purchase of T-1 Lines and Service*

UPON MOTION OF COMMISSIONER HANSEN, SECONDED BY COMMISSIONER KELLEY, ORDER 94-209 WAS UNANIMOUSLY APPROVED.

(Recess as the Public Contract Review Board and reconvene as the Board of County Commissioners)

DEPARTMENT OF ENVIRONMENTAL SERVICES

R-3 C 11-94 *Third Reading and Possible Adoption of a Proposed ORDINANCE Amending Comprehensive Framework Text Plan Policy 16 - B and MCC 11.15 Regarding the Regulation of Surface Mining and Nearby Surrounding Land Uses in Partial Fulfillment of Periodic Review Work Program Tasks Required to Bring Multnomah County's Land Use Program into Compliance with Statewide Planning Goal 5*

PROPOSED ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER HANSEN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF THE THIRD READING AND ADOPTION. CAROLYN COONS, SKIP ANDERSON AND ARNOLD ROCHLIN TESTIMONY, SUGGESTIONS AND REQUESTS FOR CLARIFICATION OF VARIOUS MATTERS. GARY CLIFFORD EXPLANATION AND RESPONSE TO BOARD QUESTIONS. UPON MOTION OF COMMISSIONER HANSEN, SECONDED BY COMMISSIONER KELLEY, AN AMENDMENT TO SECTION MCC 11.15.9005 AND 11.15.90010 DELETING REFERENCES TO FEES WAS UNANIMOUSLY APPROVED. FOLLOWING MR. CLIFFORD EXPLANATION AND UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER HANSEN, AN AMENDMENT TO SECTION MCC 11.15.6765(F) REGARDING DEFINITION OF IMPACT AREA WAS UNANIMOUSLY APPROVED. FOLLOWING MR. CLIFFORD EXPLANATION AND UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER HANSEN, AMENDMENTS TO PLAN POLICY 16-B, STRATEGIES E & F AND MCC 11.15.6765(M) REGARDING DEFINITION OF SIGNIFICANT SITE WERE UNANIMOUSLY APPROVED. MR. CLIFFORD AND JOHN DuBAY EXPLANATION AND RESPONSE TO BOARD QUESTIONS AND DISCUSSION CONCERNING EXEMPT MINING ACTIVITY. COMMISSIONER HANSEN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF AMENDMENTS TO PLAN POLICY 16-B, STRATEGIES H AND I AND MCC 11.15.6760 REGARDING REGULATION OF EXEMPT MINING ACTIVITY. MR. CLIFFORD RESPONSE TO BOARD QUESTIONS REGARDING RECLAMATION STANDARDS. CHAIR STEIN DIRECTED SHARON TIMKO TO ADDRESS ISSUE RAISED BY MR. ROCHLIN CONCERNING NEED FOR COMPREHENSIVE PLAN

AMENDMENTS REGARDING RESIDENTIAL ZONES. EXEMPT MINING ACTIVITY AMENDMENTS UNANIMOUSLY APPROVED. FOLLOWING EXPLANATION BY MR. CLIFFORD, COMMISSIONER HANSEN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF AN AMENDMENT TO MCC 11.15.7325(C)(1)(d) REGARDING TRANSPORTATION REQUIREMENTS. MR. CLIFFORD RESPONSE TO BOARD QUESTIONS. TRANSPORTATION REQUIREMENTS AMENDMENT UNANIMOUSLY APPROVED. FOLLOWING EXPLANATION BY MR. CLIFFORD AND UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER HANSEN, AMENDMENTS TO PLAN POLICY 16-B, STRATEGIES Q, MCC 11.15.7325(B) AND MCC 11.15.7325(C) REGARDING COUNTY REGULATION OF RECLAMATION WERE UNANIMOUSLY APPROVED. FOLLOWING MR. CLIFFORD'S EXPLANATION AND RESPONSE TO BOARD QUESTIONS. BOARD COMMENTS AND DISCUSSION. UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER HANSEN, AMENDMENTS TO MCC 11.15.7325(C)(2)(a)&(b) AND 11.15.7325(C)(7)(a)&(b) REGARDING SCREENING OF MINE SITES AND SETBACKS FOR MINING ACTIVITY WERE APPROVED, WITH COMMISSIONERS KELLEY, HANSEN, SALTZMAN AND STEIN VOTING AYE AND COMMISSIONER COLLIER VOTING NO. FOLLOWING EXPLANATION BY MR. CLIFFORD AND UPON MOTION OF COMMISSIONER HANSEN, SECONDED BY COMMISSIONER KELLEY, AN AMENDMENT TO MCC 11.15.7325(C)(6) REGARDING FISH AND WILDLIFE PROTECTION WAS UNANIMOUSLY APPROVED. FOLLOWING RECOMMENDATION OF MR. DuBAY AND UPON MOTION OF COMMISSIONER HANSEN, SECONDED BY COMMISSIONER KELLEY, IT WAS UNANIMOUSLY APPROVED THAT THE THIRD READING OF THE PROPOSED ORDINANCE BE APPROVED, AS AMENDED, AND A FOURTH READING BE SCHEDULED FOR THURSDAY, NOVEMBER 3, 1994.

Commissioner Hansen left at 10:40 a.m.

NON-DEPARTMENTAL

R-7 **RESOLUTION in the Matter of Accepting the Supplemental 1994-95 Budget and Preparing the Approved Supplemental Budget for Submittal to the Tax**

Supervising and Conservation Commission

COMMISSIONER KELLEY MOVED AND COMMISSIONER COLLIER SECONDED, APPROVAL OF R-7. DAVE WARREN, JIM MUNZ AND BRIAN FOWLES EXPLANATION AND RESPONSE TO BOARD QUESTIONS. MR. MUNZ TO PROVIDE COMMISSIONER KELLEY WITH ADDITIONAL INFORMATION. CHAIR STEIN DIRECTED THAT A DATA PROCESSING MANAGEMENT COMMITTEE UPDATE AND PROPOSAL BRIEFING BE SCHEDULED IN THREE OR FOUR MONTHS. RESOLUTION 94-210 UNANIMOUSLY APPROVED.

PUBLIC COMMENT

R-10 *Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.*

*Thursday, October 27, 1994 - 10:30 AM
(Or Immediately Following Regular Meeting)
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland*

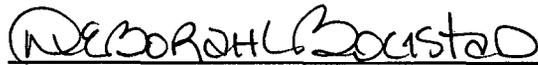
BOARD BRIEFING

B-1 *Fairview Village Project Overview. Presented by Rick Holt, Charles Haugh and Randy Jones.*

RICK HOLT PRESENTATION AND RESPONSE TO BOARD QUESTIONS. FAIRVIEW CITY ADMINISTRATOR MARILYN HOLSTROM COMMENTS AND RESPONSE TO BOARD QUESTIONS.

There being no further business, the meeting was adjourned at 11:40 a.m.

**OFFICE OF THE BOARD CLERK
for MULTNOMAH COUNTY, OREGON**


Deborah L. Bogstad



MULTNOMAH COUNTY OREGON

OFFICE OF THE BOARD CLERK
SUITE 1510, PORTLAND BUILDING
1120 S.W. FIFTH AVENUE
PORTLAND, OREGON 97204

BOARD OF COUNTY COMMISSIONERS		
BEVERLY STEIN •	CHAIR	• 248-3308
DAN SALTZMAN •	DISTRICT 1	• 248-5220
GARY HANSEN •	DISTRICT 2	• 248-5219
TANYA COLLIER •	DISTRICT 3	• 248-5217
SHARRON KELLEY •	DISTRICT 4	• 248-5213
CLERK'S OFFICE •	248-3277	• 248-5222

AGENDA

MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS

FOR THE WEEK OF

OCTOBER 24, 1994 - OCTOBER 28, 1994

Thursday, October 27, 1994 - 9:30 AM - Regular Meeting Page 2

Thursday, October 27, 1994 - 10:30 AM - Board Briefing Page 4
(Or Immediately Following Regular Meeting)

FUTURE MEETING CHANGES/CANCELLATIONS

Tuesday, 11/15/94 - Cancelled/AOC Conference
Thursday, 11/17/94 - Cancelled/AOC Conference
Tuesday, 11/22/94 - 9:30 AM Regular Meeting Scheduled
Thursday, 11/24/94 - Cancelled/Holiday

Thursday Meetings of the Multnomah County Board of Commissioners are taped and can be seen by Paragon Cable subscribers at the following times:

Thursday, 6:00 PM, Channel 30
Friday, 10:00 PM, Channel 30
Saturday, 12:30 PM, Channel 30
Sunday, 1:00 PM, Channel 30

INDIVIDUALS WITH DISABILITIES MAY CALL THE OFFICE OF THE BOARD CLERK AT 248-3277 OR 248-5222, OR MULTNOMAH COUNTY TDD PHONE 248-5040, FOR INFORMATION ON AVAILABLE SERVICES AND ACCESSIBILITY.

Thursday, October 27, 1994 - 9:30 AM

Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland

REGULAR MEETING

CONSENT CALENDAR

COMMUNITY AND FAMILY SERVICES DIVISION

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DEPARTMENT OF ENVIRONMENTAL SERVICES

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NON-DEPARTMENTAL

- R-2 *Consideration on Whether to Hold a Hearing to Accept Evidence and Argument, or Decide Appeal on the Record, in the Matter of the Appeal of Lydia Mann from Hearings Officer Decision Revoking Appellant's Adult Care Home License (9:30 AM TIME CERTAIN, 15 MINUTES REQUESTED)*

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DEPARTMENT OF HEALTH

- R-4 *Second Reading and Possible Adoption of a Proposed ORDINANCE to Provide Fee Schedule Changes for the Environmental Health Section of the Department of Health*
- R-5 *Ratification of Intergovernmental Agreement Contract 201095 Between Multnomah County, on Behalf of CareOregon, and Oregon Health Sciences University, Providing Physician Services While CareOregon Clients are Patients at Oregon Health Sciences University*

SHERIFF'S OFFICE

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(Or Immediately Following Regular Meeting)*

*Multnomah County Courthouse, Room 602
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BOARD BRIEFING

B-1 *Fairview Village Project Overview. Presented by Rick Holt, Charles Haugh and Randy Jones. (45 MINUTES REQUESTED.)*



MULTNOMAH COUNTY OREGON

COMMUNITY AND FAMILY SERVICES DIVISION
ADMINISTRATIVE OFFICES
421 S.W. FIFTH AVENUE, 2ND FLOOR
PORTLAND, OREGON 97204
(503) 248-3691 / FAX (503) 248-3379
TDD (503) 248-3598

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

TO: Board of County Commissioners
FROM: Lorenzo Poe, Director *Lorenzo Poe mas*
Community and Family Services Division
DATE: October 6, 1994
SUBJECT: FY 1994-95 Intergovernmental Revenue Agreement with City of Gresham

I. Recommendation/Action Requested: The Community and Family Services Division (CFSD), Community Action Program Office recommends Board of County Commissioner approval of the attached revenue contract with the City of Gresham, for the period July 1, 1994 through June 30, 1995.

II. Background/Analysis: The Community and Family Services Division (CFSD), Community Action Program Office has received a \$67,801 revenue contract from the City of Gresham to administer Gresham Community Development Block Grant (CDBG) funds. Services include transitional housing, bilingual case management and emergency housing voucher program.

III. Financial Impact: None. Funds for this contract are included in the Community and Family Services Division adopted budget.

IV. Legal Issues: N/A

V. Controversial Issues: N/A

VI. Link to Current County Policies: N/A

VII. Citizen Participation: The CDBG planning process uses citizen input to identify needs and priority programs. The Community Action Commission has been supportive of the County efforts to coordinate the administration of contracted service programs.

VIII. Other Government Participation: This is the third year of collective efforts that Multnomah County Community and Family Services Division (CFSD), and the City of Gresham have been involved with which has a direct result of coordinated programs.

95GRCDGB.MEM

95GRCDGB

MULTNOMAH COUNTY CONTRACT APPROVAL FORM

(See Administrative Procedures CON-1)

Contract # 103535

Amendment # _____

<p style="text-align: center;">CLASS I</p> <p><input type="checkbox"/> Professional Services under \$15,000</p>	<p style="text-align: center;">CLASS II</p> <p><input type="checkbox"/> Professional Services over \$15,000 (RFP, Exemption)</p> <p><input type="checkbox"/> PCRB Contract</p> <p><input type="checkbox"/> Maintenance Agreement</p> <p><input type="checkbox"/> Licensing Agreement</p> <p><input type="checkbox"/> Construction</p> <p><input type="checkbox"/> Grant</p> <p><input type="checkbox"/> Revenue</p>	<p style="text-align: center;">CLASS III</p> <p><input type="checkbox"/> Intergovernmental Agreement</p> <p><input checked="" type="checkbox"/> Intergovernmental Revenue Agreement</p> <p style="text-align: center;">APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS</p> <p>AGENDA # <u>C-1</u> DATE <u>10/27/94</u></p> <p style="text-align: center;"><u>DEB BOGSTAD</u> BOARD CLERK</p>
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Department: _____ Division: Community & Family Services Date: October 7, 1994

Contract Originator: _____ Phone: _____ Bldg/Room: _____

Administrative Contact: Cilla Murray Phone: 248-3691-6296 Bldg/Room: 161/2nd

Description of Contract: Revenue contract with City of Gresham to administer Gresham CDBG funds for transitional housing services, bilingual case management services, and an emergency housing voucher program.

RFP/BID #: _____ Date of RFP/BID: _____ Exemption Expiration Date: _____

ORS/AR # _____ Contractor is MBE WBE QRF

<p>Contractor Name: <u>City of Gresham</u></p> <p>Mailing Address: <u>1333 NW Eastman Parkway</u> <u>Gresham, OR 97030-3813</u></p> <p>Phone: <u>(503) 661-3000</u></p> <p>Employer ID# or SS#: _____</p> <p>Effective Date: <u>July 1, 1994</u></p> <p>Termination Date: <u>June 30, 1995</u></p> <p>Original Contract Amount: \$ _____</p> <p>Total Amt of Previous Amendments: \$ _____</p> <p>Amount of Amendment: \$ _____</p> <p>Total Amount of Agreement: <u>\$67,801</u></p>	<p>Remittance Address (if different) _____</p> <p>Payment Schedule</p> <p><input type="checkbox"/> Lump Sum \$ _____</p> <p><input type="checkbox"/> Monthly \$ _____</p> <p><input type="checkbox"/> Other \$ _____</p> <p><input type="checkbox"/> Requirements contract - Requisition Required</p> <p>Purchase Order No. _____</p> <p><input type="checkbox"/> Requirements Not to Exceed \$ _____</p> <p>Encumber: Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Terms</p> <p><input type="checkbox"/> Due on Receipt</p> <p><input type="checkbox"/> Net 30</p> <p><input type="checkbox"/> Other</p>
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REQUIRED SIGNATURES:
Department Manager: Lorenzo Poe Date: 10/13/94

Purchasing Director: _____ Date: _____
(Class II Contracts Only)

County Counsel: _____ Date: 10/27/94

County Chair/Sheriff: Timothy Stein Date: October 27, 1994

Contract Administration: _____ Date: _____
(Class I, Class II Contracts Only)

VENDOR CODE				VENDOR NAME				TOTAL AMOUNT: \$			
LINE NO.	FUND	AGENCY	ORGANIZATION	SUB ORG	ACTIVITY	OBJECT/REV SRC	SUB OBJ	REPT CATEG	LGFS DESCRIP	AMOUNT	INC DEC IND
1.	156	010	1262			2774			City of Gresham	\$67,801	

If additional space is needed, attach separate page. Write contract # on top of page.

Contract Number: 103535
Program Year: FY 1994-95
Funds Source Year: _____

INTERGOVERNMENTAL AGREEMENT
between
MULTNOMAH COUNTY
and
CITY OF GRESHAM
for the
ADMINISTRATION OF PUBLIC SERVICE GRANTS

This AGREEMENT is entered into between the CITY OF GRESHAM, through the COMMUNITY DEVELOPMENT DEPARTMENT (Gresham) and MULTNOMAH COUNTY, through its COMMUNITY AND FAMILY SERVICES DIVISION (County) for \$67,801 of Community Development Block Grant funds to administer funds for three public service programs.

RECITALS:

1. Gresham is entitled to receive Community Development Block Grant (CDBG) funds from the Federal Department of Housing and Urban Development.
2. Provision of public services is an important function of the Community Revitalization Program in Gresham.
3. Gresham has a need for administration of transitional housing services, bilingual case management services, and an emergency housing voucher program.
4. As the result of a request-for-proposal process, Multnomah County is administering contracts with Human Solutions, Inc. and Catholic Community Services of Portland, to provide transitional housing services and bilingual case management services, respectively. The County's Community Action Program Office (CAPO) directly administers the Emergency Housing Voucher program.
5. The Gresham City Council has by Resolution No. 1832, May 17, 1994 authorized \$67,801 of CDBG funds to be used as follows:
 - \$20,442 for Transitional Housing by Human Solutions, Inc.
 - \$41,817 for Bilingual Case Management Services by Catholic Community Services of Portland, and
 - \$5,542 for Emergency Housing Voucher Program by Community and Family Services Division of Multnomah County.
6. Gresham now desires to enter into a formal contract with Multnomah County to administer Gresham CDBG funds for transitional housing services, bilingual case management services, and an emergency housing voucher program.

AGREED:

I. Scope of Services

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

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

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

A. Transitional Housing

Multnomah County will oversee and administer the following Transitional Housing services to be performed by Human Solutions, Inc.

1. Human Solutions, Inc. will conduct the Transitional Housing Program. The Program will include:
 - a. Willow Tree Inn Transitional Housing:
Within the Willow Tree Inn facility, Human Solutions, Inc. will provide 16.2 unit-months. The expense of providing a unit includes rent, labor, materials and services to maintain a safe, sanitary, decent, and furnished housing unit. The approximate unit cost will be \$801.67 per unit per month.
 - b. Eastwood Court Transitional Housing:
Within the Eastwood Court facility, Human Solutions, Inc. will provide 2.0 units for 12 months, or 24 unit-months. The expense of providing a unit includes rent, labor, materials and services to maintain a safe, sanitary, decent, and furnished housing unit. The approximate unit cost will be \$310.40 per unit per month.
2. Human Solutions, Inc. will ensure that case management services are provided to each family assisted with transitional housing as funds are available from other sources.
3. Human Solutions, Inc. will screen each family for eligibility as funds are available from other sources. The eligibility requirements are:
 - Family is homeless with no place and no one to stay with,
 - Family income will be 50% of median or less,
 - Family will agree to actively participate in case management services,
 - Family size will generally be 3 to 5 members with the exception that a family of up to 10 members may be sheltered if a double unit is available.

4. Human Solutions, Inc. will maintain separate statistics on Gresham clients or households served, ethnic background, income level, and female head of households served. Such information shall be reported to Gresham on a quarterly basis. (Exhibit A - "Statistical Report of Services Provided" is a sample form.)
5. Human Solutions, Inc. will maintain a separate accounting or tracking system of Gresham units of service provided to allow verification of units billed.
6. Human Solutions, Inc. will maintain programmatic and fiscal documentation on all activities funded with CDBG funds for a minimum of three years after termination of this Agreement.
7. The maximum amount to be allocated shall not exceed \$20,442 for transitional housing operations.

B. Bilingual Case Management Services

Multnomah County will oversee and administer the following Bilingual Case Management services to be performed by the Catholic Community Services of Portland.

1. Catholic Community Services will provide 1,877 case management hours to approximately 338 Gresham families earning below 80% of median family income (MFI) for the Portland area. Clients must certify their income level. (Exhibit B enclosed with this Agreement gives income limits by family size.).
2. Case management services will be provided by a bilingual/bicultural intake and assessment worker and will include:
 - Needs assessment and evaluation;
 - Outreach and advocacy;
 - Identification, information and referral to appropriate community resources;
 - Arranging for scheduling of appointments for Spanish speaking-only clients for medical, dental, legal, mental health and other related services;
 - Providing food, clothing, transportation and shelter as available (Human Solutions has agreed to ensure that at least two weeks' of vouchers are held until the 15th of the month to be accessed by clients of Catholic Community Services' Hispanic Program);
 - Interpretation and translation for clients and nonprofit service agencies;
 - Conducting and arranging workshops such as driver's education, health, anger management, parenting, nutrition, first aid, English as a second language, literary proficiency, budgeting and other life skills;
 - Counseling (individual, group and family) in areas of alcohol and drug abuse, domestic violence, sexual abuse and teen parenting issues.

3. Catholic Community Services will maintain separate statistics on Gresham clients served, ethnic background, income level, and female head of households served. Such information shall be reported to Gresham on a quarterly basis. (Exhibit A - "Statistical Report of Services Provided" is a sample reporting form.)
4. Catholic Community Services will maintain a separate accounting or tracking system of Gresham units of service provided to allow verification of units of case management hours billed.
5. Catholic Community Services will maintain programmatic and fiscal documentation on all activities funded with CDBG funds for a minimum of three years after termination of this Agreement.
6. The unit cost will be approximately \$22.28 per hour of case management services.
7. The maximum amount to be allocated shall not exceed \$41,817 for bilingual case management services.

C. Emergency Housing Vouchers

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

1. The County will provide approximately 182 voucher-nights.
2. The County will review requests from intake agencies and maintain a client list to avoid duplication of services during the fiscal year.
3. The County, in conjunction with the Operations Committee, will play a coordinating role in the following activities: shelter availability and referrals; systematizing voucher expenditures between funding sources; and responding to concerns between agencies, funders and vendors.
4. The County will maintain separate statistics on Gresham clients or households served, ethnic background, income level, and female head of households served. Such information shall be reported to Gresham on a quarterly basis. (Exhibit A - "Statistical Report of Services Provided" is a sample form.)
5. The County will maintain a system for tracking funds expended under this agreement.
6. Funds will be used to reimburse actual costs of Emergency Housing Vouchers.
7. The County will maintain programmatic and fiscal documentation on all activities funded with Community Development Block Grant funds for a minimum of three years after termination of this Agreement.
8. The maximum amount to be allocated shall not exceed \$5,542.00 for emergency housing vouchers.

II. Compensation and Method of Payment

Multnomah County will be compensated for the above described services by the Community Development Department of the City of Gresham.

Payments to Multnomah County for services rendered will be made quarterly upon submission of a properly signed Invoice for Services Provided (see Exhibit C, attached to this Agreement). The invoice will specify reimbursement amounts for each of the three projects. The County will maintain subcontractor invoices and Multnomah County receipts for materials and services, etc.

It is agreed that total compensation for the projects shall not exceed SIXTY-SEVEN THOUSAND, EIGHT HUNDRED ONE DOLLARS (\$67,801).

III. Reporting

Multnomah County will ensure that statistical reports of services provided are submitted from the three projects along with the County's Invoice for Services Provided.

IV. Project Managers

- A. Gresham Project Manager shall be Peter von Christierson or such other person as shall be designated in writing by the Director, Community Development Department.
- B. The County Project Manager shall be John Pearson or such other person as designated by the Director, Community and Family Services Division.
- C. Gresham Project Manager is authorized to approve work and billings hereunder.
- D. Gresham Director, Community Development Department is authorized to terminate this Agreement as provided herein and to carry out any other City actions referred to herein.

V. General Contract Provisions

- A. TERMINATION FOR CAUSE. In accordance with 24 CFR 85.43, if, through any cause, the County shall fail to fulfill in timely and proper manner his/her obligations under this Agreement, or if the County shall violate any of the covenants, agreements, or stipulations of this Agreement, Gresham may avail itself of such remedies as cited in 24 CFR 85.43 by giving written notice to the County of such action and specifying the effective date of such action. In such event, all finished or unfinished documents, data, studies, and reports prepared by the County under this Agreement shall, at the option of Gresham, become the property of Gresham and the County shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.

Notwithstanding the above, the County shall not be relieved of liability to Gresham for damages sustained by Gresham by virtue of any breach of the Agreement by the County, and Gresham may withhold any payments to the

County for the purpose of setoff until such time as the exact amount of damages due Gresham from the County is determined.

B. TERMINATION FOR CONVENIENCE. In accordance with 24 CFR 85.44, Gresham and County may terminate this Agreement at any time by mutual written agreement. If the Agreement is terminated by Gresham as provided herein, the County will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the County covered by this Agreement less payments of compensation previously made.

C. ENFORCEMENT AND REMEDIES. In the event of termination under Section A hereof by Gresham due to a breach by the County, then Gresham may complete the work either itself or by agreement with another contractor, or by a combination thereof. In the event the cost of completing the work exceeds the amount actually paid to the County hereunder plus the remaining unpaid balance of the compensation provided herein, then the County shall pay to Gresham the amount of excess. Allowable costs shall be determined in accordance with 24 CFR 85.43(c).

The remedies provided to Gresham and County under Sections A and C hereof for a breach shall not be exclusive. Gresham and County also shall be entitled to any other equitable and legal remedies that are available.

In the event of termination under Section A, Gresham shall provide the County an opportunity for an administrative appeal to the Director, Community Development Department.

D. CHANGES AND EXTENSION. The City or County may, from time to time, request changes in writing in the scope of services or terms and conditions hereunder. Major changes, including any increase or decrease in the amount of the County's compensation, shall be incorporated in written amendments to this Agreement, signed by the City Manager on behalf of the City. Minor changes to the scope of work, budget line items, timing, reporting, or performance measures may be approved by the Community Development Director on behalf of the City.

Significant changes to the scope of work, performance measures, extension of time or increase in amount of Agreement must be approved by the Gresham City Council.

This Agreement may be extended for an additional year if the services to be extended and the amount of funds to be allocated are described in a Council Resolution approving a CDBG Final Statement or Amendment. Such extension shall be incorporated in written amendments to this Agreement, signed by the City Manager on behalf of the City.

E. CONTRACT NONRENEWAL. County understands and agrees that there is no representation, implication or understanding that the services provided by the County under this Agreement will be purchased by the City under a new contract following expiration or termination of the Agreement, and waives all rights or claims to notice or hearing respecting any failure to continue purchase of all or any such services from the County.

- F. NON-DISCRIMINATION. During the performance of this Agreement, the County agrees as follows:
1. The County will comply with the non-discrimination provisions of Title VI of the Civil Rights Act of 1964 (24 CFR 1), Fair Housing Act (24 CFR 100), and Executive Order 11063 (24 CFR 107).
 2. The County will comply with prohibitions against discrimination on the basis of age under Section 109 of the Act as well as the Age Discrimination Act of 1975 (24 CFR 146), and the prohibitions against discrimination against otherwise qualified individuals with handicaps under Section 109 as well as Section 504 of the Rehabilitation Act of 1973 (24 CFR 8).
 3. The County will comply with the equal employment and affirmative action requirements of Executive Order 11246, as amended by Order 12086 (41 CFR 60).
- G. SECTION 3. The County will comply with the training and employment guidelines of Section 3 of the Housing and Urban Development Act of 1968, as amended (12U.S.C.1701a), and regulations pursuant thereto (24 CFR Part 135).
- H. ACCESS TO RECORDS. Gresham, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, general organizational and administrative information, documents, papers, and records of the County which are directly pertinent to this Agreement, for the purpose of making audit or monitoring, examination, excerpts, and transcriptions. All required records must be maintained by the County for three years after Gresham makes final payments and all other pending matters are closed.
- I. MAINTENANCE OF RECORDS. The County shall maintain fiscal records on a current basis to support its billings to Gresham. The County shall retain fiscal as well as all records relating to program and client eligibility for inspection, audit, and copying for three years from the date of completion or termination of this Agreement. Gresham or its authorized representative shall have the authority to inspect, audit, and copy on reasonable notice and from time to time any records of the County regarding its billings or its work here under.
- J. AUDIT OF PAYMENTS. Gresham, either directly or through a designated representative, may audit the records of the County at any time during the 3 year period established by Section H above.
- If an audit discloses that payments to the County were in excess of the amount to which the County was entitled, then the County shall repay the amount of the excess to Gresham.
- K. INDEMNIFICATION. To the extent permitted by the Oregon Tort Claim Act and the Oregon Constitution, the County shall hold harmless, defend, and indemnify Gresham and Gresham's officers, agents and employees

against all claims, demands, actions, and suits (including all attorney fees and costs) brought against any of them arising from the County's work or any subcontractor's work under this Agreement.

L. LIABILITY INSURANCE. The County is self-insured as provided by Oregon law.

M. WORKER'S COMPENSATION INSURANCE.

(a) The County, its subcontracts, if any, and all employers working under this Agreement are subject employers under the Oregon Workers' compensation law and shall comply with ORS 656.017, which requires them to provide worker's compensation coverage for all their subject workers. A certificate of insurance, or copy thereof, shall be attached to this Agreement as Exhibit 'A', if applicable, and shall be incorporated herein and made a term and part of this Agreement. The County further agrees to maintain workers' compensation insurance coverage for the duration of this Agreement.

(b) In the event the County's workers' compensation insurance coverage is due to expire during the term of this Agreement, the County agrees to timely renew its insurance, either as a carrier-insured employer or a self-insured employer as provided by Chapter 656 of the Oregon Revised Statutes, before its expiration, and the County agrees to provide Gresham such further certification of workers' compensation insurance as renewals of said insurance occur.

(c) In lieu of filing the certificate noted in M (a) and (b) above, the County agrees to accurately complete Gresham's Questionnaire for Worker's Compensation Insurance and Qualification as an Independent County prior to commencing work under this Agreement. Any misrepresentation of information on the Questionnaire by the County shall constitute a breach of the Agreement. In the event of breach pursuant to this subsection, Gresham may terminate the agreement immediately and the notice requirement contained in subsection (C), EARLY TERMINATION OF AGREEMENT, hereof shall not apply.

N. SUBCONTRACTING AND ASSIGNMENT. The County shall not subcontract its work under this contract, in whole or in part, to contractors not specified in this Agreement, without the written approval of Gresham. The County shall require any approved subcontractor to agree, as to the portion subcontracted, to fulfill all obligations of the County as specified in this Agreement. Notwithstanding Gresham approval of a subcontractor, the County shall remain obligated for full performance hereunder, and Gresham shall incur no obligation other than its obligations to the County hereunder. The County agrees that if sub-contractors are employed in the performance of this Agreement, the County and its subcontractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation. The County shall not assign this Agreement in whole or in part or any right or obligation hereunder, without prior written approval of Gresham.

The subcontractor shall be responsible for adhering to all regulations cited within this Agreement.

- O. INDEPENDENT CONTRACTOR STATUS. The County is engaged as an independent contractor and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder.

The County and its subcontractors and employees are not employees of Gresham and are not eligible for any benefits through Gresham, including without limitation: federal social security, health benefits, workers' compensation, unemployment compensation, and retirement benefits.

- P. CONFLICTS OF INTEREST. No Gresham officer or employee, during his or her tenure or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

No board of director member or employee of the County, during his or her tenure or for one year thereafter, shall have any interest, direct, or indirect, in this Agreement or the proceeds. Use of Agreement funds to pay personnel costs itemized in Agreement is exempted from this requirement.

No Gresham officer or employees who participated in the award of this Agreement shall be employed by the County during the Agreement. On CDBG-funded projects, the County shall further comply with the conflict of interest provisions cited in 24 CFR 570.611.

- Q. CONTRACT ADMINISTRATION. 24 CFR 570.502(a). The County shall comply with the applicable provisions of OMB Circular Nos. A-87, A-128, and 24 CFR Part 85 as described by 24 CFR 570.502(a) and 570.610.

- R. OREGON LAW AND FORUM. This Agreement shall be construed according to the law of the State of Oregon.

Any litigation between Gresham and the County arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Multnomah County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.

- S. AVAILABILITY OF FUNDS. It is understood by all parties to this Agreement that the funds used to pay for services provided herein are provided to Gresham through a grant from the U.S. Department of Housing and Urban Development. In the event that funding is reduced, recaptured, or otherwise made unavailable to Gresham as a result of federal action, Gresham reserves the right to terminate the Agreement as provided under Section B hereof, or change the scope of services as provided under Section D hereof.

- T. PROGRAM INCOME/PERSONAL PROPERTY. For Community Development Block Grant-funded projects, the County shall comply with provisions of 24 CFR 570.504 regarding program income. Program income shall be retained by the subcontractor provided that it shall be used exclusively for CDBG eligible activities as defined in 24 CFR 570.

- U. COMPLIANCE WITH LAWS. In connection with its activities under this Agreement, the County shall comply with all applicable federal, state, and local laws and regulations. For Community Development Block Grant-funded projects, the County shall carry out its activities in compliance with 24 CFR 570.503 Subpart K, excepting the responsibilities identified in 24 CFR 570.604 and 570.612.

In the event that the County provides goods or services to Gresham in the aggregate in excess of \$2,500 per fiscal year, the County agrees it has complied with Gresham's Equal Employment Opportunity certification process.

- V. MONITORING. Gresham through the Community Revitalization Program shall monitor at least once each year that portion of the County's project funded with Community Development Block Grant funds. Such monitoring shall ensure that the operation of the project conforms to the provisions of this Agreement.
- W. EXPIRATION/REVERSION OF ASSETS. For Community Development Block Grant-funded projects, the County shall comply with the Reversion of Assets provision of 24 CFR 570.503 (b) (8).
- X. MINIMIZING DISPLACEMENT. The County assures that it will take all reasonable steps to minimize the displacement of persons as a result of this Agreement, and shall comply with the applicable provisions of 24 CFR 570.606 or 576.80.
- Y. PROGRAM ACCESS BY THE DISABLED. The County shall, to the maximum feasible extent, follow Gresham's Citizen Participation guidelines on ensuring interested persons can reasonably obtain information about, and access to, HUD-funded activities.
- Z. SEVERABILITY. If any provision of this agreement is found to be illegal or unenforceable, this agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- AA. INTEGRATION. This agreement contains the entire agreement between Gresham and the Contractor and supersedes all prior written or oral discussions or agreements.
- BB. FUND-RAISING. Gresham-funded dollars may be used to cover expenses directly related to the contracted project. Costs associated with general agency fund-raising activities are not eligible.
- CC. PUBLICITY. Publicity regarding the project shall note participation of Gresham through the Community Revitalization Program.
- DD. LOBBYING. No Federal appropriated funds have been paid or will be paid, by or on behalf of the County, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or

cooperative agreement. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the County shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The County shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreement) and that all Subcontractors shall certify and disclose accordingly.

EE. CHURCH-STATE. The County agrees to comply with the applicable provisions of 24 CFR 570.200(j) or 24 CFR 576.22 regarding the use of federal funds by religious organizations.

V. Period of Agreement

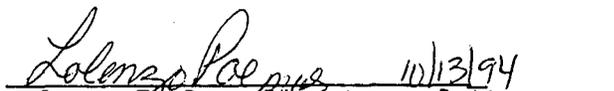
The terms of this Agreement shall be effective as of July 1, 1994 and shall remain in effect during any period the County has control over Federal funds, including program income. The Agreement shall terminate as of June 30, 1995, or later if extended under the terms stated in Section IV (d).

Dated this _____ day of _____, 1994.

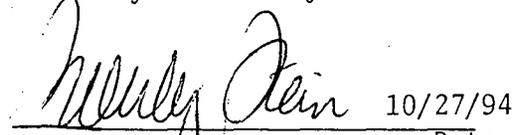
CITY OF GRESHAM

MULTNOMAH COUNTY


Gussie McRobert, Mayor
9/6/94


Lorenzo T. Poe, Director Date 10/13/94
Community and Family Services Division


Bonnie R. Kraft, City Manager

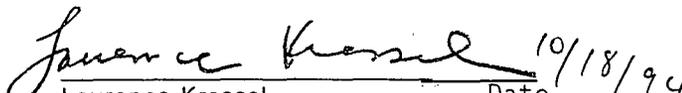

Beverly Stein, Chair Date 10/27/94
Multnomah County

APPROVED AS TO FORM:

REVIEWED:


Richard Faus
City Attorney

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-1 DATE 10/27/94
DEB BOGSTAD
BOARD CLERK


Laurence Kressel Date 10/18/94
County Counsel



MULTNOMAH COUNTY OREGON

BEVERLY STEIN
COUNTY CHAIR

EMPLOYEE SERVICES
FINANCE
LABOR RELATIONS
PLANNING & BUDGET
RISK MANAGEMENT

(503) 248-5015
(503) 248-3312
(503) 248-5135
(503) 248-3883
(503) 248-3797

(503) 248-5170 TDD

PORTLAND BUILDING
1120 S.W. FIFTH, 14TH FLOOR
P.O. BOX 14700
PORTLAND, OREGON 97214

PURCHASING, CONTRACTS
& CENTRAL STORES

(503) 248-5111

2505 S.E. 11TH, 1ST FLOOR
PORTLAND, OREGON 97202

May 16, 1994

Cilla Murray
Community and Family Services Division
Multnomah County
Bldg. 161/2nd Floor

Dear Ms. Murray:

The purpose of this letter is to inform you of Multnomah County's insurance program. Multnomah County does not carry liability or worker's compensation insurance. The County is self-insured in accordance with the provisions of ORS 30.270 (Tort Claims Act) and ORS 656.403 (Worker's Compensation). The County maintains an insurance fund from which to pay all costs and expenses relating to claims for which they are self-insured. The County's exposure for liability is limited by statute to \$50,000 property damage, \$100,000 personal injury per person, and \$500,000 total damages per occurrence.

Please let me know if you have any additional questions. My number is 248-3797.

Sincerely,



Jean M. Miley
Risk Manager

N:\DATA\WP\CENTER\IRISK\JM\IRISK1

cc: Howard Cutler

MEETING DATE: OCT 27 1994
AGENDA NO: C-2

(Above space for Board Clerk's Use Only)

AGENDA PLACEMENT FORM

SUBJECT: Revenue Contract Between the City of Portland and Community and Family Services Division, for Eligibility Verification for Water/Sewer Bill Discount Program Serving Low Income Households

BOARD BRIEFING Date Requested: _____

Amount of Time Needed: _____

REGULAR BRIEFING Date Requested: _____

Amount of Time Needed: 5 minutes

DEPARTMENT: _____ DIVISION: Community & Family Svcs

CONTACT: Lorenzo Poe/Rey España TELEPHONE: 248-3691
BLDG/ROOM: B161/2nd

PERSON(S) MAKING PRESENTATION: Lorenzo Poe/Rey España

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

The Community and Family Services Division has received a revenue contract from the City of Portland, Bureaus of Environmental Services and Water, for an estimated \$66,250. The contract authorizes payment to the County for verifying eligibility of low income households for the City's Water/Sewer Bill Discount Program.

This is a new program for both the City and County.

10/27/94 ORIGINALS to CILLA MURRAY

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

OR

DEPARTMENT MANAGER: *Lorenzo Poe*

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

pdx95wat.bcc

1994 OCT 18 PM 3:50
CLERK OF BOARD OF
MULTNOMAH COUNTY
OREGON



MULTNOMAH COUNTY OREGON

COMMUNITY AND FAMILY SERVICES DIVISION
ADMINISTRATIVE OFFICES
421 S.W. FIFTH AVENUE, 2ND FLOOR
PORTLAND, OREGON 97204
(503) 248-3691 / FAX (503) 248-3379
TDD (503) 248-3598

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

TO: Board of County Commissioners
FROM: Lorenzo Poe, Director *Lorenzo Poe MCB*
Community and Family Services Division
DATE: October 12, 1994
SUBJECT: Revenue Contract from City of Portland

I. Recommendation/Action Requested: The Community and Family Services Division recommends Board of County Commissioner approval of the revenue contract from the City of Portland, Bureaus of Environmental Services and Water, for the period August 31, 1994 through June 30, 1995.

This revenue contract is retroactive to the date set by the revenue source. The contract was processed through the City of Portland first, which contributed to the delay.

II. Background/Analysis: The Community and Family Services Division has received a revenue contract from the City of Portland Bureaus of Environmental Services and Water, to pay for eligibility verification for the City's Water/Sewer Bill Discount Program. The contract pays for services delivered, at an average rate of \$6.62 per successfully processed applicant. The estimated funding level is \$66,250.

The Water/Sewer Bill Discount Program is a City of Portland initiative to provide financial assistance to low income households to lessen the impact of rising water/sewer utility costs. The Community and Family Services Division was selected through a competitive request for proposal process to provide program administrative services.

The funds will be subcontracted to community service centers, which also administer the Low Income Energy Assistance Program (LIEAP).

III. Financial Impact: The revenue contract adds an estimated \$66,250 to the Community and Family Services Division, Community Action Program budget. Funds will be added to the budget through a budget modification, to be processed separately.

IV. Legal Issues: none

V. Controversial Issues: none

VI. Link to Current County Policies: This contract demonstrates intergovernmental cooperation and coordination of anti-poverty services.

VII. Citizen Participation: The Community Action Commission has supported Community Action involvement in this program.

VIII. Other Government Participation: The contract comes from the City of Portland.

pdx95wat.srs

MULTNOMAH COUNTY CONTRACT APPROVAL FORM

(See Administrative Procedures CON-1)

Contract # 103755

Amendment # _____

<p style="text-align: center;">CLASS I</p> <p><input type="checkbox"/> Professional Services under \$15,000</p>	<p style="text-align: center;">CLASS II</p> <p><input type="checkbox"/> Professional Services over \$15,000 (RFP, Exemption)</p> <p><input type="checkbox"/> PCRB Contract</p> <p><input type="checkbox"/> Maintenance Agreement</p> <p><input type="checkbox"/> Licensing Agreement</p> <p><input type="checkbox"/> Construction</p> <p><input type="checkbox"/> Grant</p> <p><input type="checkbox"/> Revenue</p>	<p style="text-align: center;">CLASS III</p> <p><input type="checkbox"/> Intergovernmental Agreement</p> <p><input checked="" type="checkbox"/> Intergovernmental Revenue Agreement</p> <p style="text-align: center;">APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS</p> <p>AGENDA # <u>C-2</u> DATE <u>10/27/94</u></p> <p style="text-align: center;"><u>DEB BOGSTAD</u></p> <p style="text-align: center;">BOARD CLERK</p>
------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Department: _____ Division: Community & Family Services Date: October 12, 1994

Contract Originator: _____ Phone: _____ Bldg/Room: _____

Administrative Contact: Cilla Murray Phone: 248-3691-6296 Bldg/Room: 161/2nd

Description of Contract: **Payments for eligibility verification of the Water/Sewer Bill Discount Program.**

RFP/BID #: _____ Date of RFP/BID: _____ Exemption Expiration Date: _____

ORS/AR # _____ Contractor is MBE WBE JQRF

<p>Contractor Name: <u>City of Portland, BES&W</u></p> <p>Mailing Address: <u>325 N.E. 122nd, PO Box 16887</u> <u>Portland, OR 97216-0887</u></p> <p>Phone: <u>(503)823-4114</u></p> <p>Employer ID# or SS#: _____</p> <p>Effective Date: <u>August 31, 1994</u></p> <p>Termination Date: <u>June 30, 1995</u></p> <p>Original Contract Amount: \$ _____</p> <p>Total Amt of Previous Amendments: \$ _____</p> <p>Amount of Amendment: \$ _____</p> <p>Total Amount of Agreement: \$ <u>Requirements</u></p>	<p>Remittance Address (if different) _____</p> <p>Payment Schedule Terms</p> <p><input type="checkbox"/> Lump Sum \$ _____ <input type="checkbox"/> Due on Receipt</p> <p><input type="checkbox"/> Monthly \$ _____ <input type="checkbox"/> Net 30</p> <p><input checked="" type="checkbox"/> Other \$ <u>Per Invoice</u> <input type="checkbox"/> Other</p> <p><input type="checkbox"/> Requirements contract - Requisition Required</p> <p>Purchase Order No. _____</p> <p><input checked="" type="checkbox"/> Requirements Not to Exceed \$ <u>66,250</u></p> <p>Encumber: Yes <input type="checkbox"/> No <input type="checkbox"/></p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

REQUIRED SIGNATURES:

Department Manager: *Lorenzo Pae mas* Date: 10/12/94

Purchasing Director: _____ Date: _____
(Class II Contracts Only)

County Counsel: *[Signature]* Date: 10/19/94

County Chair/Sheriff: *[Signature]* Date: October 27, 1994

Contract Administration: _____ Date: _____
(Class I, Class II Contracts Only)

VENDOR CODE				VENDOR NAME				TOTAL AMOUNT: \$			
LINE NO.	FUND	AGENCY	ORGANIZATION	SUB ORG	ACTIVITY	OBJECT/REV SRC	SUB OBJ	REPT CATEG	LGFS DESCIP	AMOUNT	INC DEC IND
01	156	010	1270			2773			City of PDX	Reqts	

If additional space is needed, attach separate page. Write contract # on top of page.

INTERGOVERNMENTAL AGREEMENT

WATER/SEWER BILL DISCOUNT PROGRAM AGREEMENT

This agreement is between the City of Portland (CITY) and Multnomah County (COUNTY) to provide administration of the eligibility verification for the Water/Sewer Bill Discount Program.

RECITALS

1. The City is interested in establishing a Water/Sewer Bill Discount Program to provide financial assistance to low-income households, so as to lessen the impact of rising water/sewer utility costs.
2. The City has directed the Bureaus of Environmental Services and Water to implement water and sewer discounts for low-income households effective on January 1, 1995.
3. The City has a need to obtain program administration services for the eligibility verification of the Water/Sewer Bill Discount Program.
4. Through a selection process Multnomah County has been selected as the agency best suited to administer eligibility verification for the Bill Discount Program.
5. The City desires to enter into an agreement with Multnomah County to provide eligibility verification services for the Water/Sewer Bill Discount Program.

AGREEMENT

CITY OBLIGATIONS

CITY shall provide funding for the program, public notification, and general support in accordance with the policies and procedures to be developed and mutually agreed upon.

COUNTY OBLIGATIONS

COUNTY will provide eligibility verification of the City's Water/Sewer Bill Discount Program in accordance with the policies and procedures to be mutually developed and agreed upon including:

Application intake and review
Eligibility determination
Regular reporting to the City

MUTUAL OBLIGATIONS

CITY and COUNTY shall develop policies and procedures for the eligibility verification of the Water/Sewer Bill Discount Program.

CITY AND COUNTY PROJECT MANAGERS

The City Project Manager shall be Jane Burke or such other person as shall be designated in writing by the heads of the Bureaus of Environmental Services and Water.

The County Project Manager shall be Nancy Culver or such other person as shall be designated in writing by the head of the Housing and Community Services Division.

The Project Managers are authorized to approve work and give notices referred to herein, to terminate this Agreement as provided herein and to carry out any other City or County actions referred to herein.

COMPENSATION

The City shall compensate the County based on actual costs, for each applicant that is successfully processed through the eligibility verification process for the Bill Discount Program. The City shall pay the County quarterly after receipt of the documentation and approval by the project managers as to the number of applicants processed. The annual cost for the eligibility verification shall not exceed an average of \$6.62 for each successfully processed applicant. The last quarter of the fiscal year shall be the time to adjust the final billing to meet this requirement.

EFFECTIVE AND TERMINATION DATES

This agreement shall be effective on August 31, 1994 or upon execution and terminate effective June 30, 1995, with two annual options for renewal, if mutually agreed upon. Early termination could occur after a 90-day notification by either party.

AMENDMENTS

By mutual agreement this Agreement may be amended by a written document signed by the authorized representatives of each party. Any increase in compensation to the County must be approved by City Council.

COMPLIANCE WITH LAWS

In connection with their activities under this Agreement, the City, and County shall comply with all applicable federal, state, and local laws and regulations.

OREGON LAW AND FORUM

This Agreement shall be construed according to the law of the State of Oregon.

Any Litigation between the City and the County under this Agreement shall occur, if in the state courts, in the Multnomah County Court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the District of Oregon.

INDEMNIFICATION

To the extent permitted by Oregon Law, the Contractor shall hold harmless, defend and indemnify for public liability and property damage the City, and the City's officers, agents and employees against all claims, demands, actions and suits (including all attorney's fees and costs) brought against any of them arising from the Contractor's work or any subcontractor's work under this Agreement.

CITY OF PORTLAND

By: Mike Lindberg
Mike Lindberg
Commissioner of Public Utilities

Date: 9/29/94

MULTNOMAH COUNTY

By: Beverly Stein
Beverly Stein
Multnomah County Chair

Date: October 27, 1994

REVIEWED
By: Laurence Kressel
Laurence Kressel,
County Counsel for Multnomah
County, Oregon

APPROVED AS TO FORM
Jiffy J. Rogers PC
CITY ATTORNEY

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-2 DATE 10/27/94
DEB BOGSTAD
BOARD CLERK

ORDINANCE No. 168088

* Intergovernmental agreement with Multnomah County for Water/Sewer Bill Discount Program administration of eligibility verification. (Ordinance)

The City of Portland ordains:

SECTION 1. The Council finds:

1. The City has an interest in providing financial assistance to eligible low income households who cannot afford water and sewer utility payments.
2. The Bureaus of Environmental Services and Water have been directed to develop a Bill Discount Program to provide this financial assistance.
3. Funding for the administration of eligibility verification for the Bill Discount Program, in the amount of \$66,250, is to be shared equally by the Bureaus of Environmental Services and Water and is included in the Water/Environmental Services FY 94/95 adopted budgets.
4. The City has a need to acquire program administration services for the Water/Sewer Bill Discount Program.
5. Through a selection process Multnomah County has been selected as the agency best suited to provide administration of eligibility verification for the Bill Discount Program.
6. The City desires to enter into an agreement with Multnomah County to provide administration of eligibility verification for the Water/Sewer Bill Discount Program.

NOW, THEREFORE, the Council directs:

- a. The Commissioner of Public Utilities is authorized to execute an intergovernmental agreement between the City of Portland and Multnomah County to provide administration of eligibility verification for the Water/Sewer Bill Discount Program.

SECTION 2.

The Council declares that an emergency exists because a delay in passage of this ordinance would delay the ability of the City to begin the Water/Sewer Discount Program on January 1, 1995; therefore, this Ordinance shall be in force and effect from and after its passage by the Council.

PASSED BY THE COUNCIL SEP 07 1994
Commissioner Mike Lindberg
August 31, 1994

BARBARA CLARK
Auditor of the City of Portland
By

Betta Olson

Deputy

**WATER/SEWER BILL DISCOUNT
1995 PROGRAM INSTRUCTIONS**

- A. While agencies are making LIEAP appointments, applicants will be asked to bring in their City of Portland Water/Sewer bill. During the LIEAP intake process applicants will be asked if they would like to participate in the Water/Sewer Bill Discount program. If yes, agency needs to complete a voucher and identify client as eligible for WSBD Program in the LIEAP Tracker. CAPO will provide training on how to enter data on LIEAP Tracker. It is projected by HCS that data entry will be as simple as checking a box programmed into the computer system. (Actual water/sewer bill discounts start on January 1, 1995 bills.)
- B. CAPO will add Water/Sewer Bill Discount (WSBD) administration funds into the agencies LIEAP Intake Allocations. Agencies will receive WSBD planning allocations. Agencies will bill CAPO for every WSBD Voucher authorized. CAPO will allot 15 minutes for each WSBD authorized. ie. For every 4 WSBD authorized, agencies will bill CAPO 1 hour of WSBD services provided.
- C. Since WSBD program is new, CAPO will base allocations on LIEAP percentages. CAPO will initially allocate 70% of total WSBD funds and review the allocation expenditures within six months of start up.
- D. Agencies shall bill WSBD units at their established LIEAP Intake Unit Rate. (ie. 4 authorized WSBD vouchers equal one WSBD Unit.) When billing CAPO, agencies must identify WSBD units separately from LIEAP Intake Units. (Funds are from different sources, therefore CAPO must track separately.)
- E. CAPO will compile quarterly reports from the LIEAP Tracker. Agencies will report on monthly billings only.

MEETING DATE: OCT 27 1994

AGENDA NO: C-3

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Request Approval of Deed to Contract Purchaser for Completion of Contract.

BOARD BRIEFING: Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: _____

Amount of Time Needed: Consent

DEPARTMENT: Environmental Services DIVISION: Assessment & Taxation

CONTACT: Kathy Tuneberg TELEPHONE #: 248-3590

BLDG/ROOM #: 166/200/Tax Title

PERSON(S) MAKING PRESENTATION: Kathy Tuneberg

ACTION REQUESTED:

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

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

Request approval of deed to contract purchaser for completion of Contract #15528. (Property originally repurchased by former owner.)

Deed D951106 and Board Orders attached.

10/27/94 ORIGINAL & COPY to Bev Scott

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

OR

DEPARTMENT MANAGER: *[Signature]* *[Signature]*

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

MULTI-COUNTY BOARD OF COUNTY COMMISSIONERS
OREGON
1994 OCT 18 PM 4:05

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

In the matter of the Execution of)
Deed D951106 Upon Complete Performance of) ORDER
a Contract to) 94-206
GREATER MT CALVARY CHURCH OF GOD)

It appearing that heretofore on March 16, 1990, Multnomah County entered into a contract with GREATER MT CALVARY CHURCH OF GOD for the sale of the real property hereinafter described; and

That the above contract purchaser has fully performed the terms and conditions of said contract and is now entitled to a deed conveying said property to said purchaser;

NOW THEREFORE, it is hereby ORDERED that the Chair of the Multnomah County Board of County Commissioners execute a deed conveying to the contract purchaser the following described real property, situated in the County of Multnomah, State of Oregon:

CAESAR PARK
LOT 2, BLOCK 4

Dated at Portland, Oregon this 27th day of October, 1994.



BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

Beverly Stein
Beverly Stein, Chair

REVIEWED:
Laurence Kressel, County Counsel
for Multnomah County, Oregon

BY *John L. DuBay*
John L. DuBay

DEED D951106

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to GREATER MT CALVARY CHURCH OF GOD, Grantee, the following described real property, situated in the County of Multnomah, State of Oregon:

CAESAR PARK
LOT 2, BLOCK 4

The true and actual consideration paid for this transfer, stated in terms of dollars is \$6,078.68.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

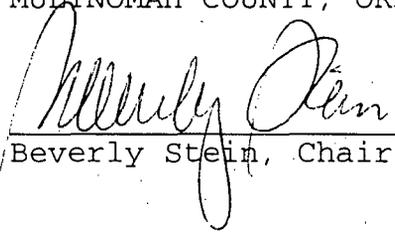
Until a change is requested, all tax statements shall be sent to the following address:

1234 NE KILLINGSWORTH
PORTLAND, OR 97211

IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of County Commissioners this 27th day of October, 1994, by authority of an Order of the Board of County Commissioners heretofore entered of record.



BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

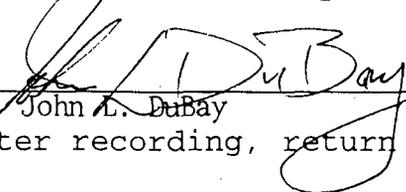

Beverly Stein, Chair

REVIEWED:

Laurence Kressel, County Counsel
for Multnomah County, Oregon

DEED APPROVED:

Janice Druian, Director
Assessment & Taxation

BY 
John L. DuBay

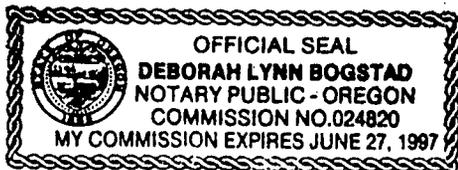
BY 
K. A. Tuneberg

After recording, return to Multnomah County Tax Title, 166/200

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

On this 27th day of October, 1994, before me, a Notary Public in and for the County of Multnomah and State of Oregon, personally appeared Beverly Stein, Chair, Multnomah County Board of Commissioners, to me personally known, who being duly sworn did say that the attached instrument was signed and sealed on behalf of the County by authority of the Multnomah County Board of Commissioners, and that said instrument is the free act and deed of Multnomah County.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first in this, my certificate, written.



DEBORAH LYNN BOGSTAD
Notary Public for Oregon
My Commission expires: 6/27/97

MEETING DATE: OCT 27 1994

AGENDA NO: C-4

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Request Approval of Repurchase Deed to Former Owner

BOARD BRIEFING: Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: _____

Amount of Time Needed: 5 minutes

DEPARTMENT: Environmental Services DIVISION: Assessment & Taxation

CONTACT: Kathy Tuneberg TELEPHONE #: 248-3590

BLDG/ROOM #: 166/200/Tax Title

PERSON(S) MAKING PRESENTATION: Kathy Tuneberg

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

Request approval of Repurchase Deed to former owner.

Deed D951108 and Board Orders attached.

10/27/94 ORIGINAL & copy to Bev Scott

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

OR

DEPARTMENT MANAGER: *Janice M. Jones* *Betsy Willis*

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

MULTNOMAH COUNTY
OREGON
1994 OCT 18 PM 4:06
673
CLERK OF COUNTY COMMISSIONERS

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

In the Matter of the Execution of)
Deed D951108 for Certain) ORDER
Tax Acquired Property to) 94-207
THE ESTATE OF FRANK T. DAMIS)
CHARLES D. DAMIS, CONSERVATOR)

It appearing that heretofore Multnomah County acquired the real property hereinafter described through foreclosure of liens for delinquent taxes, and that THE ESTATE OF FRANK T. DAMIS, CHARLES D. DAMIS, CONSERVATOR is the former record owner thereof, and has applied to the county to repurchase said property for the amount of \$27,315.43 which amount is not less than that required by Section 275.180 ORS; and that it is for the best interests of the County that said application be accepted and that said property be sold to said former owner for said amount;

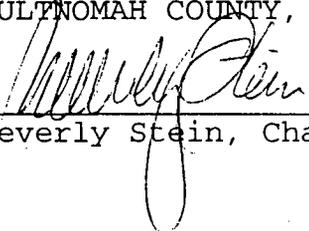
NOW, THEREFORE, it is hereby ORDERED that the Chair of the Multnomah County Board of County Commissioners execute a deed conveying to the former owner the following described property situated in the County of Multnomah, State of Oregon:

LAURELHURST
LOT 23, BLOCK 96

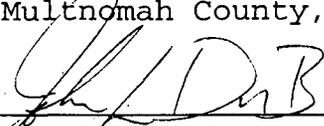
Dated Portland, Oregon this 27th day of October , 1994.



BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON


Beverly Stein, Chair

REVIEWED:
Laurence Kressel, County Counsel
for Multnomah County, Oregon

By 
John L. DuBay

DEED D951108

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to THE ESTATE OF FRANK T. DAMIS, CHARLES D. DAMIS, CONSERVATOR, Grantee, the following described real property, situated in the County of Multnomah, State of Oregon:

LAURELHURST
LOT 23, BLOCK 96

The true and actual consideration paid for this transfer, stated in terms of dollars is \$27,315.43.

This instrument will not allow use of the property described in this instrument in violation of applicable land use laws and regulations. Before signing or accepting this instrument, the person acquiring fee title to the property should check with the appropriate City or County Planning department to verify approved uses.

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

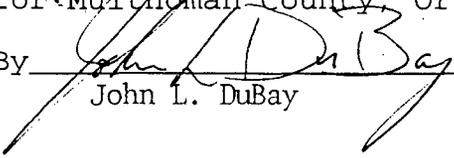
7110 B NE 43RD ST.
VANCOUVER, WA 98661

IN WITNESS, WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of County Commissioners this 27th day of October, 1994 by authority of an Order of said Board of County Commissioners heretofore entered of record.

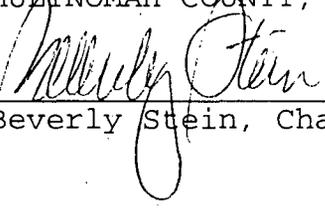


REVIEWED:
Lawrence Kressel, County Counsel
for Multnomah County, Oregon

By


John L. DuBay

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON


Beverly Stein, Chair

DEED APPROVED:
Janice Druian, Director
Assessment & Taxation

By

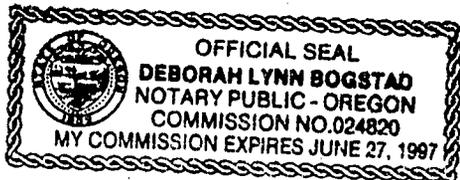

K. A. Tuneberg

After recording, return to Multnomah County Tax Title
166/200/Tax Collections

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

On this 27th day of October, 1994, before me, a Notary Public in and for the County of Multnomah and State of Oregon, personally appeared Beverly Stein, Chair, Multnomah County Board of Commissioners, to me personally known, who being duly sworn did say that the attached instrument was signed and sealed on behalf of the County by authority of the Multnomah County Board of Commissioners, and that said instrument is the free act and deed of Multnomah County.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first in this, my certificate, written.



DEBORAH LYNN BOGSTAD
Notary Public for Oregon
My Commission expires: 6/27/97

MEETING DATE: OCT 27 1994

AGENDA NO: R-1

(Above space for Board Clerk's Use Only)

AGENDA PLACEMENT FORM

SUBJECT: Ratification of Amendment #1 with PCC-Portland Employment Project

BOARD BRIEFING Date Requested: _____

Amount of Time Needed: 5 Minutes

REGULAR MEETING: Date Requested: _____

Amount of Time Needed: _____

DEPARTMENT: _____ DIVISION Community and Family Services

CONTACT: Donald Acker TELEPHONE #: 248-3691 x6461
BLDG/ROOM #: 161/200

PERSON(S) MAKING PRESENTATION: Lorenzo Poe/Susan Clark

ACTION REQUESTED:

INFORMATION ONLY POLICY DIRECTION APPROVAL OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

Ratification of amendment #1 to an agreement between the Multnomah County Community and Family Services Division's Developmental Disabilities Program and Portland Community College-Portland Employment Project for the period July 1, 1994 through June 30, 1995. The amendment attached passes on State start-up funds to provide services for persons with developmental disabilities who are participating in the Local Solution Project.

10/27/94 ORIGINALS TO CATA ~~XXXXXXXXXX~~ CAROLYN WEISBERG

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____
OR

DEPARTMENT MANAGER/DIVISION DIRECTOR: *Lorenzo Poe*

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Question: Call the Office of the Board Clerk 248-5222

(WPDOC) 0516C/63

6/93
MULTNOMAH COUNTY
OREGON
BOARD OF
COUNTY COMMISSIONERS
1994 OCT 18 PM 3:50



MULTNOMAH COUNTY OREGON

COMMUNITY AND FAMILY SERVICES DIVISION
ADMINISTRATIVE OFFICES
421 S.W. FIFTH AVENUE, 2ND FLOOR
PORTLAND, OREGON 97204
(503) 248-3691 / FAX (503) 248-3379
TDD (503) 248-3598

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

MEMORANDUM

TO: Board of County Commissioners

FROM: Lorenzo T. Poe, Jr., Director
Children and Families Services Division 

DATE: October 14, 1994

REQUESTED PLACEMENT DATE:

RE: Approval of Amendment #1 with Portland Community College-Portland
Employment Project

I. Action Requested:

Approval of Amendment #1 with Portland Community College-Portland
Employment Project.

II. Background/Analysis:

The amendment attached authorizes payment to PCC-Portland Employment
Project for services provided as part of the Local Solutions Project. This
start-up funding is available via the State Mental Health Grant.

III. Financial Impact:

The funds are available via the State Mental Health Grant for this project.

IV. Legal Issues:

N/A

V. Controversial Issues:

N/A

VI. Link to Current County Policies:

This agreement provides needed mental health services for eligible
Multnomah County residents.

VII. Citizen Participation:

N/A

VIII. Other Government Participation:

N/A

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

Contract # 100535

Amendment # 1

<p align="center">CLASS I</p> <p><input type="checkbox"/> Professional Services under \$15,000</p>	<p align="center">CLASS II</p> <p><input type="checkbox"/> Professional Services over \$15,000 (RFP, Exemption)</p> <p><input type="checkbox"/> PCRB Contract</p> <p><input type="checkbox"/> Maintenance Agreement</p> <p><input type="checkbox"/> Licensing Agreement</p> <p><input type="checkbox"/> Construction</p> <p><input type="checkbox"/> Grant</p> <p><input type="checkbox"/> Revenue</p>	<p align="center">CLASS III</p> <p><input checked="" type="checkbox"/> Intergovernmental Agreement</p> <p><input type="checkbox"/> Intergovernmental Revenue Agreement</p> <p align="center">APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS</p> <p>AGENDA # <u>R-1</u> DATE <u>10/27/94</u></p> <p align="center"><u>DEB BOGSTAD</u> BOARD CLERK</p>
-----------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Department: _____ Division: COMMUNITY & FAMILY SERVICES Date: AUGUST 25, 1994
 Contract Originator: _____ Phone: _____ Bldg/Room: _____
 Administrative Contact: CAROLYNNE WEBBER Phone: 248-3691 X2583 Bldg/Room: 161/200
 Description of Contract: Amendment #1 adds State funds for the Local Solutions Project (DD57) for FY 94/95.

RFP/BID #: N/A IGA Date of RFP/BID: _____ Exemption Expiration Date: _____
 ORS/AR # _____ Contractor is MBE WBE QRF

<p>Contractor Name: <u>PCC-PORTLAND EMPLOYMENT PROJECT</u></p> <p>Mailing Address: <u>PO BOX 19000 - SSA14</u> <u>PORTLAND OR 97280-0990</u></p> <p>Phone: <u>503-244-6111 x4115</u></p> <p>Employer ID# or SS#: <u>93-0575187</u></p> <p>Effective Date: <u>JULY 1, 1994</u></p> <p>Termination Date: <u>JUNE 30, 1995</u></p> <p>Original Contract Amount: \$ <u>REQUIREMENTS</u></p> <p>Total Amt of Previous Amendments: \$ _____</p> <p>Amount of Amendment: \$ <u>REQUIREMENTS</u></p> <p>Total Amount of Agreement: \$ <u>REQUIREMENTS</u></p>	<p>Remittance Address (if different) _____</p> <p>Payment Schedule _____ Terms _____</p> <p><input type="checkbox"/> Lump Sum \$ _____ <input type="checkbox"/> Due on Receipt</p> <p><input type="checkbox"/> Monthly \$ _____ <input type="checkbox"/> Net 30</p> <p><input checked="" type="checkbox"/> Other \$ <u>AS AUTHORIZED</u> <input type="checkbox"/> Other</p> <p><input type="checkbox"/> Requirements contract - Requisition Required</p> <p>Purchase Order No. _____</p> <p><input checked="" type="checkbox"/> Requirements Not to Exceed \$ <u>FUNDS AVAILABLE</u></p> <p>Encumber: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
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REQUIRED SIGNATURES:

Department Manager: *Lorenzo Pae mus* Date: 10/14/94

Purchasing Director: _____ Date: _____
(Class II Contracts Only)

County Counsel: *[Signature]* Date: 10/19/94

County Chair/Sheriff: *[Signature]* Date: October 27, 1994

Contract Administration: _____ Date: _____
(Class I, Class II Contracts Only)

VENDOR CODE				VENDOR NAME				TOTAL AMOUNT: \$			
LINE NO.	FUND	AGENCY	ORGANIZATION	SUB ORG	ACTIVITY	OBJECT/REV SRC	SUB OBJ	REPT CATEG	LGFS DESCRIPT	AMOUNT	INC DEC IND
01.	156	010	1512		21DD	6060				Req.	

If additional space is needed, attach separate page. Write contract # on top of page.

MULTNOMAH COUNTY COMMUNITY AND FAMILY SERVICES DIVISION
 Contract Number 100535, Amendment #1

TERM OF CONTRACT: From July 1, 1994 To: June 30, 1995
 CONTRACTOR NAME: Portland Community College-Portland TELEPHONE: (503)244-6111
 Employment Project
 CONTRACTOR ADDRESS: P.O.Box 19000-SSA14 IRS NUMBER: 93-0575187
 Portland, Oregon 97219 MEDICAID #:

This amendment is to that certain contract dated July 1, 1994, between the Multnomah County Community and Family Services Division, referred to as the "COUNTY" and Portland Community College-Portland Employment Project, referred to as the "CONTRACTOR". It is understood by the parties that all conditions and agreements in the original contract not superseded by the language of this amendment are still in force and apply to this amendment.

PART I: SERVICES THROUGH COUNTY BILLING

Service	Current Units	Change	Revised Units	Unit Rate	Current Funds	Change	Revised County Funds
---------	---------------	--------	---------------	-----------	---------------	--------	----------------------

MONTHLY ALLOTMENT

Employment & Alternative Svc./DD54	Req.	0	Req.	Per Client Schedule	Req.	0	Req.
------------------------------------	------	---	------	---------------------	------	---	------

AS AUTHORIZED: Start-up

Special Proj. DD57/Local Solutions Proj.	0	Req.	Req.	Actual Expend.	0	Req.	Req.
------------------------------------------	---	------	------	----------------	---	------	------

II. SERVICES THROUGH STATE BILLING-Medicaid

Service	Current Units	Change	Revised Units	Unit Rate	Current Funds	Change	Revised County Funds
---------	---------------	--------	---------------	-----------	---------------	--------	----------------------

N/A

PART III: AMENDMENT NARRATIVE

Amendment #1 authorizes payment to provider to DD57/Local Solutions Project services funded via the state for FY 94/95 as per Start-up Special Conditions.

In witness whereof, the parties hereto have caused this contract to be executed by their authorized officers.

MULTNOMAH COUNTY

CONTRACTOR: PCC-Portland Employment Project

BY [Signature] 10-14-94
Developmental Disabilities Program Manager Date

BY _____
Authorized Agency Signer Date

BY [Signature] 10/14/94
Community And Family Services Division Director Date

BY _____
Authorized Agency Signer Date

BY [Signature] 10/27/94
Beverly Stein Multnomah County Chair Date

REVIEWED:
LAURENCE KRESSEL, County Counsel for Multnomah County, Oregon

By [Signature] 10/19/94
Date

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-1 DATE 10/27/94
DEB BOGSTAD
BOARD CLERK

MEETING DATE: 10/27/94

AGENDA NO: R-2

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Appeal of Lydia Mann from Hearings Officer Decision Revoking Adult Care Home License

BOARD BRIEFING **Date Requested:** _____

Amount of Time Needed: _____

REGULAR MEETING: **Date Requested:** Thursday, October 27, 1994

Amount of Time Needed: 9:30 a.m., Time Certain, 15 Minutes

DEPARTMENT: Non-Departmental **DIVISION:** Chair Beverly Stein

CONTACT: Pete Kasting **TELEPHONE #:** 823-4047
City Attorney's Office **BLDG/ROOM #:** 131/315

PERSON(S) MAKING PRESENTATION: Senior Deputy City Attorney Pete Kasting

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

The Board of Commissioners Needs to Decide Whether it Wants to (1) Hold a Hearing to Accept Evidence or Argument on this Appeal or (2) Decide this Appeal on the Record that has Already Been Created. MCC 8.90.090 (J) and Section 890-90-450 of the Administrative Rules for Licensure of Adult Care Homes. Give the Board Discretion to Follow Either Course.

1994 OCT 19 11 2 12
BOARD OF COMMISSIONERS
CLATSOP COUNTY
OREGON

SIGNATURES REQUIRED:

ELECTED OFFICIAL: *Beverly Stein*

OR

DEPARTMENT MANAGER: _____

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222



CITY OF
PORTLAND, OREGON
OFFICE OF CITY ATTORNEY

Jeffrey L. Rogers, City Attorney
1220 S.W. 5th Avenue
Portland, Oregon 97204
(503) 823-4047

October 19, 1994

INTEROFFICE MEMORANDUM

TO: Board of County Commissioners

FROM: Peter Kasting^K
Senior Deputy City Attorney

SUBJ: Appeal of Lydia Mann from Hearings officer Decision on
Adult Care Home License

BOARD OF
COUNTY COMMISSIONERS
1994 OCT 19 PM 2 05
MULTNOMAH COUNTY
OREGON

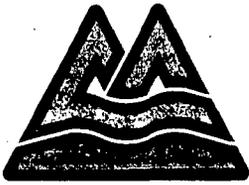
At its meeting on October 27, 1994, the Board needs to decide whether it wants to (1) hold a hearing to accept evidence or argument on this appeal or (2) decide this appeal on the record that has already been created. MCC section 8.90.090 (J) and section 890-90-450 of the Administrative Rules for Licensure of Adult Care Homes give the Board discretion to follow either course.

The County Counsel's Office has requested that the Board decide this matter based on the record created at the Hearings Officer's hearing. As of this time, counsel for Ms. Mann has not requested an opportunity to submit supplemental evidence or argument on this matter.

The meeting on the 27th is not intended to address the merits of the appeal. It is only to decide whether the Board wants to receive additional evidence or argument in this matter, and to schedule further steps in the appeal.

I will be attending the meeting on the 27th. Counsel for the licensee and the Adult Care Home Program might attend this meeting but are not required to attend. If they do attend and you want to hear from them on whether additional evidence or argument should be received (and on that question only), I would suggest giving each side three minutes to make a statement.

c: Margaret Hoffman, Attorney for Lydia Mann (via FAX)
Jacqueline Weber, Assistant County Counsel (via FAX)



MULTNOMAH COUNTY OREGON

OFFICE OF COUNTY COUNSEL
1120 S.W. FIFTH AVENUE, SUITE 1530
P.O. BOX 849
PORTLAND, OREGON 97207-0849
(503) 248-3138
FAX 248-3377

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN, CHAIR
DAN SALTZMAN
GARY HANSEN
TANYA COLLIER
SHARRON KELLEY

October 18, 1994

COUNTY COUNSEL
LAURENCE KRESSEL
CHIEF ASSISTANT
JOHN L. DU BAY
ASSISTANTS
J. MICHAEL DOYLE
SANDRA N. DUFFY
GERALD H. ITKIN
H.H. LAZENBY, JR.
STEVEN J. NEMIROV
MATTHEW O. RYAN
JACQUELINE A. WEBER

Board of County Commissioners
1120 S.W. Fifth Avenue
Suite 1510
Portland, Oregon 97204

RE: Appeal of Lydia Mann
Hearing No. 143037
Date of Hearing: 9/02/94

1994 OCT 18 PM 3:49
MULTNOMAH COUNTY
OREGON
CLERK OF COUNTY COMMISSIONERS

Dear Commissioners:

Multnomah County Adult Care Home Program responds to the Exception to the Hearing Officer's Order in the Appeal of Lydia Mann, filed on behalf of Lydia Mann on or about September 26, 1994, as follows:

1. The hearing officer found that Ms. Mann's use of a restraint device on Mr. Geren, that was not physician approved, violated five separate Multnomah County Administrative Rules for Licensure of Adult Care Homes (MCAR). This finding is supported by substantial evidence in the record and should be affirmed by the Board.

2. The hearing officer found that Ms. Mann committed said violations deliberately and intentionally, knowing that her use of the restraint without physician approval was a rule violation. This finding is supported by substantial evidence in the record and should be affirmed by the Board.

3. The hearing officer found that the use of the non-physician approved restraint was the direct cause of Mr. Geren's death. Further, that had Ms. Mann complied with the rules that were specifically intended to prevent such a tragedy, Mr. Geren's

Board of County Commissioners
October 18, 1994
Page 2

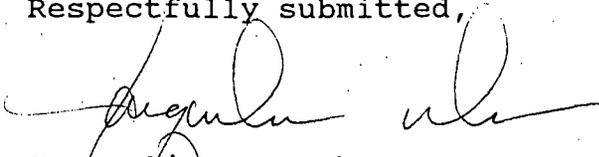
death would almost certainly have been avoided. This finding is supported by substantial evidence in the record and should be affirmed by the Board.

4. The Administrator's Determination to revoke Ms. Mann's license as a result of her knowing use of the non-physician approved restraint and the resultant death of Mr. Geren, is neither arbitrary nor excessive. It is the mandate of the Multnomah County Adult Care Home Program to protect the health, safety and welfare of frail, elderly and dependant people. The public looks to Multnomah County to protect these people from precisely the type of tragedy which occurred as a result of Ms. Mann's rule violations.

The rule violations in this case, committed knowingly, resulted in the death of Mr. Geren. The sanction imposed, revocation of Ms. Mann's license, is commensurate with the harm suffered. The hearing officer's determination to revoke Ms. Mann's license should be affirmed.

Multnomah County Adult Care Home Program hereby requests that the Board review this case on the record made at the hearing.

Respectfully submitted,



Jacqueline A. Weber
Assistant County Counsel
Attorney for Multnomah County Adult Care Home Program

cc: Margaret Hoffman, Attorney for Lydia Mann
Pete Kasting



MULTNOMAH COUNTY OREGON

OFFICE OF THE BOARD CLERK
SUITE 1510, PORTLAND BUILDING
1120 S.W. FIFTH AVENUE
PORTLAND, OREGON 97204

BOARD OF COUNTY COMMISSIONERS

BEVERLY STEIN	CHAIR	• 248-3308
DAN SALTZMAN	DISTRICT 1	• 248-5220
GARY HANSEN	DISTRICT 2	• 248-5219
TANYA COLLIER	DISTRICT 3	• 248-5217
SHARRON KELLEY	DISTRICT 4	• 248-5213
CLERK'S OFFICE	248-3277	• 248-5222

September 30, 1994

*Margaret Hoffmann
Attorney at Law
Schwabe Williamson & Wyatt
1211 SW Fifth Avenue, Suites 1600-1800
Portland, Oregon 97204-3795*

*Re: Appeal of Lydia Mann
Hearing No. 143037
Date of Hearing: 9/2/94*

Dear Ms. Hoffmann:

Pursuant to Section 890-090-430 of the Administrative Rules for Licensure of Adult Care Homes, enclosed please find a copy of the exception filed on behalf of Ms. Mann in connection with the captioned hearing.

Any written rebuttal to this exception should be filed with this office within 20 days from receipt of same. Thank you.

Sincerely,

Deborah L. Bogstad
Deborah Bogstad
OFFICE OF THE BOARD CLERK

*dlb
enclosure*

*cc: Mary Fassell
Jacqueline Weber
Pete Kasting*

- 890-090-400 Review by the Board of County Commissioners Refer to MCC 8.90.090 (J) and (K)
- 090-410 Any party may file a written exception to the hearings officer's order with the Clerk of the Board of County Commissioners within 20 days from the date of the order.
- 090-420 A written exception shall set forth reasons for the exception and specific objections to the findings, conclusions, corrective actions, and/or sanctions contained in the order.
- 090-430 Upon receipt of a timely exception, the Clerk of the Board shall promptly cause a copy of the exception to be mailed to the parties; such parties shall have 20 days from receipt of the exception to file a written rebuttal to the exception.
- 090-440 If the Board remands a contested decision to the hearings officer, he or she shall review the written exceptions and rebuttal, and recommend a final order to the Board. If the matter is remanded, nothing in this section shall prevent the hearings officer from conducting a hearing or scheduling oral arguments, and nothing shall require such action before recommending a final order to the Board.
- 090-450 Nothing in this section shall require the Board to conduct a hearing or schedule oral arguments if a written exception to the hearings officer's order is filed.
- 890-100-100 Inspections and Interviews Refer to MCC 8.90.100 (A)
- 100-110 The purpose of inspections is to evaluate the physical environment of an Adult Care Home in order to ascertain the safe, sanitary and habitable condition thereof.
- 100-120 The purpose of interviews is to evaluate the physical and mental condition of residents and the social environment of the home, including staff qualifications and training and care provided, in order to ascertain the appropriateness and adequacy thereof.
- 100-130 A further purpose of both inspections and interviews is to review records concerning practices in the home and concerning residents, including care plans and account records, in order to ascertain the appropriateness, completeness and accuracy thereof.
- 100-140 The Department shall conduct an inspection of an Adult Care Home, and/or shall conduct interviews with the operator, resident manager, other caregivers and household members, residents, and other persons on the premises, and/or shall review records:
- (a) Prior to issuance of a license;
 - (b) Prior to annual renewal of a license;

cc LARRY KRESSEL
9/29/94

**SCHWABE
WILLIAMSON
& WYATT**
P.C.
ATTORNEYS AT LAW

PACWEST CENTER, SUITES 1600-1800
1211 SOUTHWEST FIFTH AVENUE • PORTLAND, OREGON 97204-3795
TELEPHONE: 503 222-9981 • FAX: 503 796-2900 • TELEX: 650-686-1360

MARGARET HOFFMANN

September 26, 1994

Board of County Commissioners
1120 S.W. Fifth Avenue
15th Floor
Portland, OR 97204

1994 SEP 29 PM 12:35
CLERK OF
BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON

Re: Appeal of Lydia Mann
Hearing No. 143037
Date of Hearing: 09/02/94

Gentlemen:

Lydia Mann provides notice that she is appealing the Hearings Officer Order dated September 9, 1994, a copy of which is attached. Ms. Mann appeals the Hearing Officer's Order on the following grounds:

Ms. Mann objects to the Hearing Officer's ruling that the Administrator's Determination is not excessive or arbitrary. Ms. Mann references the Hearing Officer's Order, page 2, paragraph 4, where the Hearings Officer concludes that: "The Administrator's Determination, while perhaps seemingly harsh, does not appear excessive or arbitrary given the ultimately tragic results of the violation."

Ms. Mann submits that the testimony provided at the hearing overwhelmingly establishes that her prior record was impeccable. Therefore, even if the Hearings Officer correctly concluded that a violation occurred in connection with the present incident, that violation does not warrant revocation of her license. Such a sanction is excessive and arbitrary given her unblemished record as an adult foster care operator.

For the reasons stated above, Ms. Mann appeals to the Board of County Commissioners, the decision of the Hearings Officer.

Respectfully submitted,
Margaret Hoffmann
Margaret Hoffmann
On Behalf of Lydia Mann

MOC:nad
Enclosure
cc: Ms. Mary Fassell
Ms. Lydia Mann



CITY OF

PORTLAND, OREGON

HEARINGS OFFICE

1120 S.W. 5th Avenue, Room 1017
Portland, Oregon 97204-1960

Elizabeth A. Normand, Land Use Hearings Officer
(503) 823-7719

William W. Shatzer, Code Hearings Officer
(503) 823-7307

FAX (503) 823-5370

HEARINGS OFFICER'S ORDER

APPEAL OF LYDIA MANN

HEARING NO. 143037

DATE OF HEARING: September 2, 1994

APPEARANCES:

Ms. Mary Fassell for Multnomah County

Ms. Lydia Mann, personally and by her attorney, Ms. Margaret Hoffmann

HEARINGS OFFICER: Mr. William W. Shatzer

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The facts in this tragic situation are basically undisputed. The appellant is the operator of an Adult Care Home under an appropriate Multnomah County license. Without first obtaining a physician's order or a nursing delegation, the appellant procured a non-approved restraint device and used it to restrain one of her residents in bed at night. Some time during the night of July 13, 1994, the resident apparently fell out of bed and was fatally strangled when the restraint device became entangled around the resident's neck.

The procurement and use of the restraint device violated numerous provisions of the applicable Multnomah County Rules. MCAR 890-020-505(c) permits the use of restraints only upon the written order of a physician. MCAR 890-020-505(d) allows an adult care home operator to apply restraints only with an appropriate nursing delegation. MCAR 890-020-415(l) provides for a resident's right to be free of restraints except as may be ordered by a physician. MCAR 890-020-410(f) provides that operators may not expose residents to abuse, and MCAR 890-105-120(f) specifically defines "abuse" as any use of restraints not specifically authorized by a physician.

These rules are, of course, intended to prevent exactly the tragedy which occurred in this instance. They are designed to ensure that restraints are utilized only in appropriate cases. In those instances where restraints are appropriate, the rules seek to ensure that the safest, least restrictive, and most appropriate method of restraint is used, and that any restraint utilized is both an approved device and correctly applied. Had the appellant complied with these rules, the death of her resident would almost certainly have been avoided.

BOARD OF
COUNTY COMMISSIONERS
1994 SEP 23 PM 12:35
MULTNOMAH COUNTY
OREGON

In mitigation of the appellant's admitted rule violations, it should be noted that the evidence indicates that, with the exception of the rule violations involved in this current proceeding, she has apparently been in full compliance with the Adult Care Home rules and regulations for over ten years and that the standard of care provided in her home has been uniformly high. Moreover, her violations of the restraint rules were not, apparently, malicious or ill-intentioned. It appears her decision to obtain and apply the restraints were motivated by a genuine belief that this was in the best interests of the resident. Her decision to forego obtaining a physician's order and a nursing delegation may have been influenced by a previous situation in which another resident indisputably required restraints yet it took over three months to obtain an appropriate physician's approval.

Yet, her violations were clearly intentional and deliberate. She knew of the requirements for a physician's order and nursing delegation and, for whatever reasons, made a conscious determination to utilize the restraints on her resident without obtaining either. This decision, almost certainly, led directly to the resident's death.

This situation is a tragedy for Ms. Mann as well as for the family of the deceased. Clearly she is deeply remorseful over the result of her errors in judgment. Given Ms. Mann's previous record in operating her adult care home and her obvious deep sorrow and regret over her resident's death, I would have little apprehension of a reoccurrence of this type of violation. Moreover, the revocation of Ms. Mann's license will result in dislocation and inconvenience to her remaining residents, and there is little or no assurance that the care they might receive in another home will be safer or better than the level of care they are now receiving.

However, my task is not to substitute my judgment for that of the Administrator. Rather, it is to review that determination to ensure that the Administrator's determination is well-founded on the facts and law and is rational, well-reasoned, and non-arbitrary. The ultimate question must be that if the sanction of license revocation is not appropriate in the case of an intentional and knowing rule violation which directly leads to a death, when, if ever, would such a sanction be appropriate? The Administrator's determination, while perhaps seemingly harsh, does not appear excessive or arbitrary given the ultimately tragic results of the violation. Accordingly, that determination will be sustained with an appropriate modification in the effective date to allow the orderly relocation of the current residents from Ms. Mann's home.

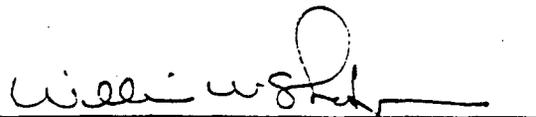
ORDER AND DETERMINATION:

The determination of the Multnomah County Adult Care Home Program dated July 21, 1994, is MODIFIED to provide that the effective date of the revocation shall be October 3, 1994. Except as so modified, the determination is SUSTAINED.

This order has been mailed to the parties on September 9, 1994, and shall become final and effective on September 29, 1994, unless appealed to the Board of County Commissioners prior to that date.

Dated: _____

September 9, 1994


Code Hearings Officer

WWS:db

#1

PLEASE PRINT LEGIBLY!

MEETING DATE 10-27-94

NAME

Carolyn Coons

ADDRESS

41101 SE Louder Rd.

STREET

Corbett, OR 97019

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM #

R-3

SUPPORT

OPPOSE

SUBMIT TO BOARD CLERK

#2

PLEASE PRINT LEGIBLY!

MEETING DATE

10-27-94

NAME

Skip Anderson

ADDRESS

P.O. Box 83449

STREET

Portland Or 97283

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM #

A-3

SUPPORT

OPPOSE

SUBMIT TO BOARD CLERK

#3

PLEASE PRINT LEGIBLY!

MEETING DATE 10/27/94

NAME Arnold Rochlin

ADDRESS PO Box 83645

~~STREET~~ Portland 97283

CITY ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM # R-3 (cu-94)

SUPPORT _____ OPPOSE _____
SUBMIT TO BOARD CLERK

MEETING DATE: October 11, 1994 ~~OCT 18 1994~~

AGENDA NO: P-3 ~~P-2~~

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: C 11-94 Proposed Ordinance - First Reading

BOARD BRIEFING Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: October 11, 1994

Amount of Time Needed: 1 Hour

DEPARTMENT: DES **DIVISION:** Planning

CONTACT: R. Scott Pemble **TELEPHONE #:** 3182
BLDG/ROOM #: 412/103

PERSON(S) MAKING PRESENTATION: Planning Staff

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

C 11-94 A proposed Ordinance, amending Comprehensive Framework Text Plan Policy 16-B and MCC 11.15 regarding the regulation of surface mining and nearby surrounding land uses in partial fulfillment of Periodic Review Work Program tasks required to bring Multnomah County's land use program into compliance with Statewide Planning Goal 5. - First Reading

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

OR

DEPARTMENT MANAGER: 

RECEIVED
MULTNOMAH COUNTY
1994 OCT 14 10 20
COMMUNITY DEVELOPMENT

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

ORDINANCE FACT SHEET

Ordinance Title:

An Ordinance amending Comprehensive Framework Text Plan Policy 16-B and MCC 11.15 regarding the regulation of surface mining and surrounding land uses in partial fulfillment of Periodic Review Work Program tasks required to bring Multnomah County's land use program into compliance with Statewide Planning Goal 5.

Give a brief statement of the purpose of the ordinance (include the rationale for adoption of ordinance, description of persons benefited, other alternatives explored):

The Comprehensive Plan and Zoning Code amendments will provide the land use regulation tools to carry out the concluding programs in the West Hills and Howard Canyon Area Reconciliation Reports. The ordinance will make the necessary amendments to provide clear standards to protect from future conflicts those mineral and aggregate sites determined to be appropriate for mining, while also providing standards applicable to mining that will reduce the impacts of mining activities on surrounding land uses. The amendments are necessary to comply with Statewide Planning Goal 5 and OAR 660-16.

What other local jurisdictions in the metropolitan area have enacted similar legislation?

Every county and city in the state is subject to compliance with Statewide Planning Goal 5 and OAR 660-16. Washington County has a similar mining overlay zoning district.

What has been the experience in other areas with this type of legislation?

Additional regulations and reviews of land uses surrounding a mining site and mining operation proposals. The overlay zone concept is the method recommended by the Department of Land Conservation and Development for regulating mining and surrounding land uses.

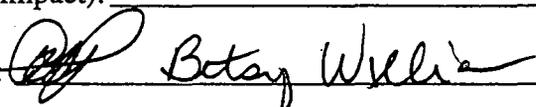
What is the fiscal impact, if any?

Future mining proposals not on the list of "Protected Sites" will encounter new application costs of \$500.00 for a Plan Revision and \$1,000 plus \$50.00 per acre for a Zone Change in addition to the present \$800.00 Conditional Use fee. New nearby land uses, after a mining operation permit is approved, could be required to expend more money in construction to lessen conflicts with mining activities (ie. a new homeowner constructing a sound berm between a proposed house and the mine). Additional staff time will be needed in review of surrounding regulated land uses. No anticipated budget impacts.

SIGNATURES

Person Filling Out Form: _____

Planning & Budget Division (if fiscal impact): _____

Department Manager/Elected Official:  _____

**DECISION OF THE
MULTNOMAH COUNTY PLANNING COMMISSION**

In the Matter of amending the Comprehensive)
Framework Plan and Zoning Code to protect)
Aggregate and Mineral Goal 5 resources)

**RESOLUTION
C 11-94**

WHEREAS, Periodic Review Remand Order 93-RA-876 required Multnomah County to complete additional work related to certain Statewide Planning Goal 5 resources; and

WHEREAS, On August 9, 1994 the Board of County Commissioners decided that the Howard Canyon aggregate site is a significant Goal 5 resource. Based on an analysis of conflicting uses and economic, social, environmental and energy (ESEE) consequences, the Board determined that the appropriate level of protection for the resource should be "3-C" (allow conflicting uses in a limited manner that will give some protection to the resource). The analysis and reasons justifying the Board's decision are incorporated in the Howard Canyon Reconciliation Report; and

WHEREAS, OAR 660-16 requires the county to amend its comprehensive plan and zoning designations to be consistent with the level of protection and protection programs determined to be appropriate for each resource. These amendments are necessary in order to provide clear standards under which development can occur, so that the aggregate resources are protected from possible negative effects of development; and

WHEREAS, The Planning Commission held open workshops for drafting of the proposed amendments to the zoning code text and Comprehensive Framework Plan on August 22, 1994, September 19, 1994, and September 26, 1994; and

WHEREAS, The Planning Commission conducted a public hearing on September 12, 1994, to accept public testimony on proposed amendments to the zoning code text and Comprehensive Framework Plan; and

NOW, THEREFORE BE IT RESOLVED that the Planning Commission hereby recommends that the Board of County Commissioners amend the zoning code and revise the Comprehensive Framework Plan, as indicated in the attached Ordinance, to fulfill requirements of the LCDC Periodic Review Remand Order.

Approved this 26th day of September, 1994

By 
Leonard Yoon, Chair
Multnomah County Planning Commission

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ORDINANCE NO. _____

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An Ordinance amending Comprehensive Framework Text Plan Policy 16 - B and MCC 11.15 regarding the regulation of surface mining and nearby surrounding land uses in partial fulfillment of Periodic Review Work Program tasks required to bring Multnomah County's land use program into compliance with Statewide Planning Goal 5.

(Underlined sections are new or replacements; [~~bracketed~~] sections are deleted.)

Multnomah County Ordains as follows:

Section I. Findings.

(A) Periodic Review Remand Order 93-RA-876 required Multnomah County to complete additional work related to protection and regulation of aggregate and mineral resources to be in compliance with the requirements of Statewide Planning Goal 5 and associated Oregon Administrative Rules (OARs).

(B) On March 9, 1994, the Land Conservation and Development Commission approved the county's Work Program (WKPROG - 0038) which indicated work tasks that must be completed to fulfill the requirements of the Remand Order.

(C) On August 9, 1994 the Board of County Commissioners decided on the appropriate level of protection of the Angell Brothers and Howard Canyon aggregate resource sites.

(D) OAR 660-16 requires the county to amend it's Comprehensive Plan and zoning code to be consistent with the adopted protection programs for each Goal 5 resource. This ordinance will make the necessary amendments to provide clear standards to protect mining operations from future conflicts while providing standards applicable to mining which will reduce the impacts of mining on surrounding land uses.

1 (E) On August 22, 1994 the Planning Commission held open workshops for drafting of the
2 amendments. On September 12, 1994 the Planning Commission held a public hearing. On September 26,
3 1994 the Planning Commission held an additional open workshop for review of the amendments.
4 Hearings before the Board of County Commissioners followed on _____ and
5 _____, 1994. At each of the hearings all interested persons were given an opportunity to
6 appear and be heard.

7

8 Section II. Amendment of Framework Plan Text.

9 Multnomah County Comprehensive Framework Plan Policy 16-B is amended to read as follows:

10 POLICY 16 - B: MINERAL AND AGGREGATE RESOURCES

11 IT IS THE COUNTY'S POLICY TO PROTECT AND ENSURE APPROPRIATE USE ~~[AREAS]~~ OF
12 MINERAL AND AGGREGATE RESOURCES OF THE COUNTY, [FROM INAPPROPRIATE LAND
13 USES WHICH COULD LIMIT THEIR FUTURE USE] AND MINIMIZE CONFLICT BETWEEN SUR-
14 FACE MINING ACTIVITIES AND SURROUNDING LAND USES.

15 STRATEGIES

16 A. The county shall protect significant gravel and mineral resources consistent with Statewide Planning
17 Goal 5 and Oregon Administrative Rules Chapter 660, Division 16.

18 B. ~~[A.]~~ As a part of the ongoing planning program the County will maintain [engage in] an inventory of
19 mineral and aggregate resource[s] sites within the County ~~[utilizing data, criteria and standards from~~
20 ~~the most recent study of rock material resources compiled by the State Department of Geology and~~
21 ~~Mineral Industries].~~ The comprehensive plan inventory is to include four classifications of sites:

- 22 1. "Potential sites" are sites for which information about the location, quality, and quantity of a
23 resource site is not adequate to allow a determination of significance (Goal 5 Process Flow Chart
24 designation of "1B");
- 25 2. "Not significant sites" are sites for which information about the location, quality, and quantity of a
26 resource site shows that the site is not a significant resource (Goal 5 Process Flow Chart designa-

tion of "1A");

3. "Protected sites" are significant resource sites which are identified through the Goal 5 process as resources that the county will protect from conflicting uses (Goal 5 Process Flow Chart designations "2A," "3A," and "3C"); and

4. "Not protected sites" are significant resource sites for which the decision of the ESEE analysis is to not protect the resource from conflicting uses (Goal 5 Process Flow Chart designation of "3B").

C. A resource site may include all or portions of a parcel, and may include contiguous parcels in different ownerships.

~~D. [B During County initiated Comprehensive Plan updates, the County will utilize information made available from other sources regarding the location, quality and quantity of mineral and aggregate resources when that information is verified by such qualified professionals as certified engineering geologists and recognized testing laboratories]~~ For sites on the "potential sites" inventory, the county shall review available information about aggregate and mineral resources, and if the information on location, quantity, and quality is adequate, determine if the site is significant. Initiation of this process shall occur either:

1. As part of the next scheduled periodic review; or

2. When a landowner or operator submits information concerning the potential significance of a resource site and applies for a comprehensive plan amendment.

~~E. [C Determination that a particular mineral and aggregate resource site is both "Important" and should be included in the plan inventory is to be based upon the site's proven ability to yield more than 25,000 cubic yards of resource]~~ The county will consider aggregate resources significant if the resource meets Oregon Department of Transportation specifications for concrete aggregate rock, and the site contains a minimum of one million cubic yards of mineable reserves.

F. The county will judge the significance of non-aggregate mineral resources on a case by case basis. Resources shall be judged by the commercial or industrial value of the resource, and the relative quality and relative abundance of the resource within at least the county.

1 G. ~~[D. "Important" sites should be reviewed using the Statewide Planning Goal 5 "Economic, Social,~~
2 ~~Environmental, and Energy analysis" (ESEE) procedure as outlined in OAR 660 16 000 through 660-~~
3 ~~16 025 and only those sites receiving a "2A", "3A", or "3C" designation should be considered for con-~~
4 ~~ditional use approval for mineral and aggregate extraction.] For each site determined to be significant,~~
5 ~~the county shall complete the remainder of the Goal 5 process of identifying conflicting uses, analyz-~~
6 ~~ing the Economic, Social, Environmental, and Energy (ESEE) consequences of the conflicting use(s),~~
7 ~~and designating a level of protection from conflicting uses. If the final decision concerning the site is~~
8 ~~to preserve fully or partially protect the resource from conflicting uses, the county shall zone the site~~
9 ~~and the designated ESEE impact area with the Protected Aggregate and Mineral Resources Overlay~~
10 ~~Zoning Subdistrict (PAM).~~

11 ~~[E. In between scheduled plan updates, additional sites may be added to the plan inventory of "Important"~~
12 ~~sites and receive an ESEE designation by means of the standard plan amendment process initiated by~~
13 ~~the owner of the resource.]~~

14 H. Mining and the associated processing of aggregate and mineral materials, in excess of the limited
15 exemptions, may only be allowed at sites included on the "protected sites" inventory. Approval of a
16 mining operation at a "protected site" shall be reviewed as a conditional use. The general conditional
17 use provisions regarding time limits, conditions, restrictions, and approval criteria, (MCC .7110(C),
18 .7110(E), .7115, .7120, .7122, and .7125, September, 1994), shall not apply.

19 I. The following activities are exempt from the approval requirements and development standards of this
20 policy:

- 21 1. Mining auxiliary to forest practices;
- 22 2. In the Exclusive Farm Use (EFU) zone, mining less than 1,000 cubic yards of material or mining
23 an area of less than one acre;
- 24 3. In all other zones, mining less than 5,000 cubic yards of material or disturbing less than one acre
25 of land within a period of 12 consecutive months until mining affects five or more acres.

26 J. To approve surface mining at a site zoned Exclusive Farm Use (EFU) the county shall find, as part of

1 the conditional use approval criteria, that the proposed activity:

2 1. Will not force a significant change in accepted farm or forest practices on surrounding lands devot-
3 ed to farm or forest use; and

4 2. Will not significantly increase the cost of accepted farm or forest practices on lands devoted to
5 farm or forest use.

6 K. To approve surface mining at a site zoned Commercial Forest Use (CFU), the county shall find, as part
7 of the conditional use approval criteria, that:

8 1. The proposed mining will not force a significant change in, or significantly increase the cost of,
9 accepted farming or forest practices on agriculture or forest lands;

10 2. The proposed mining will not significantly increase fire hazard or significantly increase fire sup-
11 pression costs or significantly increase risks to fire suppression personnel; and

12 3. A written statement recognizing the rights of adjacent and nearby property owners to conduct
13 accepted forest practices has been recorded with the property deed in accordance with OAR 660-
14 06-025 (1994).

15 L. The county shall not independently apply the Protected Aggregate and Mineral Resources Overlay
16 Subdistrict (PAM) to land within another county, or within a city or its urban growth boundary. The
17 county shall encourage protection of significant sites through cooperative agreements with another
18 county or a city where the resource or its impact area extends across jurisdictional boundaries.

19 M. The county shall require increased setbacks, insulation, screening, or similar measures as conditions of
20 approval for any new conflicting use within an impact area surrounding an aggregate or mineral
21 resource site when such measures are necessary to resolve conflicts identified in a site-specific Goal 5
22 analysis.

23 N. The county shall impose conditions on surface mining when necessary to lessen conflicts identified as
24 part of a site-specific Goal 5 analysis. Where such conditions conflict with criteria and standards in
25 the Protected Aggregate and Mineral Resources Overlay, the conditions developed through the Goal 5
26 process shall control.

- 1 O. Based upon the Goal 5 ESEE analysis and the existing base zoning district, the county shall determine
2 the appropriate post-mining use of the site.
- 3 P. The county recognizes the jurisdiction of the Department of Geology and Mineral Industries (DOGA-
4 MI) over mined land reclamation pursuant to ORS 517.750 to 517.900 (1994) and the rules adopted
5 thereunder.
- 6 Q. Unless specifically determined on a case by case basis, it shall be the policy of the county, that
7 DOGAMI delay its final decision on approval of a reclamation plan and issuance of an operating per-
8 mit until the county decides all comprehensive plan amendments and/or conditional use approvals.
- 9 R. No surface mining or processing activity, as defined by the zoning ordinance, shall begin without land
10 use approval from the county, and approval of a reclamation plan and issuance of an operating permit
11 by DOGAMI.
- 12 S. When the aggregate or mineral site has been reclaimed, the county may rezone land to remove the
13 Protected Aggregate and Mineral Resources Overlay Subdistrict (PAM) without revising the ESEE
14 Analysis for the site. Rezoning shall not relieve requirements on the part of the owner or operator to
15 reclaim the site in accordance with ORS 517.750 through 517.900 and the rules adopted thereunder.
- 16 ~~[F. The Zoning Code should include provisions for:~~
- 17 ~~1. Mineral and aggregate extraction, processing, and distribution as a special conditional use with~~
18 ~~performance oriented criteria of approval for those sites receiving a "2A", "3A", or "3C" designa-~~
19 ~~tion as part of the ESEE analysis.]~~
 - 20 ~~2. Associated processing and distribution activities as a conditional use that must meet all conditional~~
21 ~~use requirements if the site is not a "2A", "3A", or "3C" resource location.~~
 - 22 ~~3. The exemption of small scale and farm and forest practice extraction sites from conditional use~~
23 ~~review.~~
 - 24 ~~4. The establishment of extraction and rehabilitation standards for mineral and aggregate resources in~~
25 ~~compliance with DOGAMI regulations as applicable.~~
 - 26 ~~5. Protection of natural resources.~~

1 ~~6. A standard setback buffer between "noise sensitive" land uses and extraction activities.~~

2 ~~(a). The location of proposed extraction activities should be setback from existing "noise sensitive"~~
3 ~~uses.~~

4 ~~(b). The location of "noise sensitive" land uses should be setback from both existing mining activi-~~
5 ~~ties and designated ESEE "2A", "3A", and "3C" resource site boundaries.~~

6 ~~(c). Some reduction in the setback buffers may be appropriate if the "noise sensitive" land use~~
7 ~~property owner agrees to record a non remonstrance deed restriction agreeing to the reduced~~
8 ~~distance.]~~

9 Section III. Repeal of certain Zoning Code subsections.

10 The following subsections of Multnomah County Code Chapter 11.15 regarding setbacks between
11 land uses and mining operations are repealed:

- 12 .2016(F); .2058(G); .2096(K); .2138(F); .2218(F); .2258(F); .2360(H); .2480(I); .2692(K);
13 .2834(J); .2844(J); .2854(J); .2864(J); .2874(J); .2884(J); .2894(I); and .7025(H).

15 Section IV. Amendment of Zoning Code.

16 Multnomah County Code Chapter 11.15 is amended to read as follows:

18 **Classification of Districts, Zoning Map & References to Other Sections**

19 **11.15.1005 Districts**

20 The County of Multnomah, outside incorporated cities, is hereby divided into the following districts:

21 * * *

22 (B) Special Districts:

23 * * *

24 SPA - Special Plan Area District

25 PAM - Protected Aggregate and Mineral District

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Protected Aggregate and Mineral Resources PAM

11.15.6750 Purposes

The purposes of the Protected Aggregate and Mineral Resources Overlay Subdistrict are:

- (A) To provide a mechanism to identify and, where appropriate, protect significant aggregate and mineral resource sites;
- (B) To allow surface mining subject to uniform operating standards; and
- (C) To regulate conflicts with surface mining activities.

11.15.6755 Area Affected

This subsection shall apply to those lands designated PAM on the Multnomah County Zoning Map. On the Zoning Map shall also be a reference to the relevant site-specific Comprehensive Plan documents.

Exemption activities as described in MCC .6760 are allowed in all districts, not only those designated PAM.

11.15.6760 Exemptions

The following activities are exempt from the requirements of this section. Operators or land owners have the burden of qualifying for any exemption.

- (A) In exclusive farm use zones, mining less than 1,000 cubic yards of material or mining an area of less than one acre;
- (B) In all other zones, mining less than 5,000 cubic yards of material or disturbing less than one acre of land within a period of 12 consecutive months until mining affects five or more acres;
- (C) Mining on forest lands auxiliary to forestry operations occurring in compliance with the Forest Practices Act as administered by the Oregon Department of Forestry.

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11.15.6765 Definitions

As used in this subdistrict and MCC .7305 through .7335, unless otherwise noted, the following words and their derivations shall have the following meanings:

(A) *Conflicting Use* – A use authorized in the underlying zone which, if allowed, could adversely affect operations at a protected aggregate and mineral resource site. As used in this subsection, a *conflicting use* is also another inventoried significant Goal 5 resource located on or adjacent to a protected aggregate or mineral site if that resource could force a change in mining or processing at the site.

(B) *Dust Sensitive Use* – A *conflicting use* which is primarily used for habitation. Residential structures, churches, hospitals, schools, public libraries, and campgrounds are considered dust sensitive uses during their period of use. Forest uses and farm uses are not *dust sensitive uses* unless determined through the *Goal 5 process*.

(C) *ESEE Analysis* – The analysis of Economic, Social, Environmental and Energy consequences of allowing mining at a *significant site*, and allowing *conflicting uses* to displace mining at a *significant site*. The *ESEE analysis* is the basis for determining the level of protection to be given the *resource*.

(D) *Extraction Area* – The area of a *protected* aggregate and mineral resource site in which mining and associated processing is permitted.

(E) *Goal 5 Process* – The planning process required by Oregon Administrative Rules Chapter 660, Division 16. The *Goal 5 process* involves identifying resource sites, determining their significance, identifying conflicting uses, analyzing the economic, social, environmental and energy consequences of *conflicting uses*, determining the level of protection given to a resource site, and implementing a program to protect *significant sites*.

(F) *Impact Area* – The area surrounding the *extraction area* in which direct conflicts between mining and other land uses are found. The *impact area* is the area in which ESEE consequences of *con-*

1 flicting uses are analyzed, and conflicting uses are regulated.

2 (G) Mining – The excavation of sand, aggregate (gravel), clay, rock, or other similar surface or subsur-
3 face resources. Mining does not include:

4 (1) Excavations conducted by a landowner or tenant on the landowner or tenant's property for the
5 primary purpose of reconstructing or maintaining access roads.

6 (2) Excavation or grading conducted in the process of farm or cemetery operations.

7 (3) Excavation or grading conducted within a road right-of-way or other easement for the primary
8 purpose of road construction, reconstruction or maintenance, or

9 (4) Removal, for compensation, of materials resulting from on-site construction for which a devel-
10 opment permit and a construction time schedule have been approved by the county.

11 (H) Noise Sensitive Use – A conflicting use which is primarily used for habitation. Residential struc-
12 tures, churches, hospitals, schools, public libraries, and campgrounds are considered noise sensi-
13 tive uses during their period of use. Forest uses and farm uses are not noise sensitive uses unless
14 determined through the Goal 5 process.

15 (I) PAM Overlay Subdistrict – A special purpose zoning designation for the purposes of MCC .6750
16 that is placed on a zoning map over a base zoning district (ie. CFU). The provisions of the PAM
17 subdistrict shall apply to land uses as specified, notwithstanding the provisions of the underlying
18 zone district.

19 (J) Processing – The washing, crushing, screening, and handling of aggregate and mineral resources.
20 Batching and blending of asphalt or portland cement concrete are included in the definition of pro-
21 cessing.

22 (K) Protected Site – Significant resource sites which are identified through the Goal 5 Process as
23 resources that the county will protect from conflicting uses. The special district designation
24 Protected Aggregate and Mineral Resources (PAM) shall only be applied to protected sites.

25 (L) Restrictive Covenant – An enforceable promise, given by the owner of a parcel whose use and
26 enjoyment of that parcel may be restricted in some fashion by mining occurring on another parcel.

1 not to object to the terms of a permit issued by a local government, state agency or federal agency.
2 The restrictive covenant shall be recorded in the real property records of the county, shall run with
3 the land, and is binding upon the heirs and successors of the parties. The covenant shall state that
4 obligations imposed by the covenant shall be released when the site has been mined and reclama-
5 tion has been completed.

6 (M) Significant Site – A site containing either significant aggregate resources or significant mineral
7 resources.

8 (1) A significant aggregate resource is a site that contains aggregate or stone materials which meet
9 Oregon Department of Transportation specifications for construction grade material and is
10 located within an ownership or long-term lease containing more than one million cubic yards
11 of reserves. The burden shall be upon the applicant for designation to demonstrate to the
12 Approval Authority that the samples tested for grading are representative of the entire area of
13 the site.

14 (2) A significant mineral resource site is a site that contains metallic and non-metallic minerals
15 other than aggregate and stone materials. The significance of a mineral resource is based upon
16 the resource's use for commercial or industrial purposes, and the relative quality and abun-
17 dance of the resource within the county. The burden shall be upon the applicant for designation
18 to demonstrate to the Approval Authority that the samples tested for grading are representative
19 of the entire area of the site.

20
21 **11.15.6770 PAM Overlay Special Subdistricts**

22 The Protected Aggregate and Mineral Resource Subdistrict (PAM) comprises two areas, the *Extraction*
23 *Area* (PAM-EA) and the *Impact Area* (PAM-IA).

24 (A) The *Extraction Area* shall be applied to the portion of *protected sites* where mining and associated
25 processing is to occur. The *Extraction Area* may consist of one or more parcels or portions of
26 parcels, and may be applied to contiguous properties under different ownership. The *Extraction*

1 Area boundary may be modified through the *Goal 5 process* to reduce conflicts with *conflicting*
2 *uses* existing when the overlay is applied. The *Extraction Area* shall be shown on the zoning map
3 with the designation PAM-EA.

4 (B) The *Impact Area* shall be applied to parcels or portions of parcels adjacent to the *Extraction Area*
5 and within the *Impact Area* deemed appropriate through the *Goal 5 process*. The *Impact Area* shall
6 be shown on the zoning map with the designation PAM-IA.

7
8 **11.15.6775 Procedure For Applying The PAM Subdistrict**

9 (A) A PAM subdistrict shall be established by amendment of the Comprehensive Framework Plan and
10 Zoning Map. The relevant factors for the establishment of the subdistrict are within the Oregon
11 Administrative Rules Chapter 660, Division 16; Comprehensive Plan Policy 16-B; MCC
12 11.05.290(1) and (2); and the applicable provisions of MCC 11.15.8205 through .8295. The factors
13 in MCC 11.15.8230(D) and (E) shall not apply.

14 (B) Under the applicable provisions of OAR Chapter 660, Division 16 and Comprehensive Plan Policy
15 16-B and based upon the analysis of information about the location, quality, and quantity of the
16 aggregate and mineral resource, the county shall make the following determinations regarding the
17 inventory status of the resource site and, if appropriate, continuation of the *Goal 5 process*:

18 (1) If the information about the location, quality, and quantity of a resource site is not adequate to
19 allow a determination of significance, the site shall be placed on a plan inventory of “poten-
20 tial sites” and shall remain on that inventory until information is available to determine
21 whether or not the site is *significant*, or

22 (2) If the resource site does not meet the definition of a *significant site*, the site shall be placed on
23 a plan inventory of “not significant sites”, or

24 (3) If the resource site meets the definition of a *significant site*, the *Goal 5 process* shall be con-
25 tinued.

1 (C) Under the applicable provisions of OAR Chapter 660, Division 16 and Comprehensive Plan Policy
2 16-B and based upon the *ESEE analysis*, the county shall determine the amount of protection to be
3 given each *significant* site. Each determination shall be incorporated into the comprehensive plan,
4 and shall be reflected on the zoning maps. One of the following determinations shall be made:

5 (1) Protect the site fully and allow surface mining as a conditional use. The county shall place the
6 site on the *Protected Sites* inventory, apply the Protected Aggregate and Mineral Resources
7 Subdistrict, specify the planned use of the site following reclamation, and prohibit the estab-
8 lishment of *conflicting uses* within the *Extraction Area* and the *Impact Area*. Conditional use
9 approval of surface mining shall be pursuant to MCC .7305 through .7335 and shall not be
10 subject to the conditional use provisions of MCC .7110(C), .7110(E), .7115, .7120, and .7125.

11 (2) Balance protection of the site and conflicting uses, allow surface mining as a conditional use.
12 The county shall place the site on the *Protected Sites* inventory, apply the Protected
13 Aggregate and Mineral Resources Subdistrict, specify the planned use of the site following
14 reclamation, and identify which uses in the underlying zone are allowed outright, allowed
15 conditionally, or prohibited. Conditional use approval of surface mining shall be pursuant to
16 any site-specific requirements developed through the *Goal 5 process* and MCC .7305 through
17 .7335. Review criteria and conditions shall not include the conditional use provisions of
18 MCC .7110(C), .7110(E), .7115, .7120, and .7125. Site-specific requirements developed
19 through the *Goal 5 process*, MCC .6780, and .6785 shall govern development of *conflicting*
20 *uses*.

21 (3) Allow *conflicting uses* fully and do not allow surface mining except as exempted in MCC
22 .6760. The county shall then place the site on the "Not Protected Sites" inventory in accor-
23 dance with Framework Plan Policy 16-B, not apply the Protected Aggregate and Mineral
24 Resource Subdistrict, and not protect the site from *conflicting uses*.

1 **11.15.6780 Extraction Area (PAM-EA) - Allowed Uses**

2 Notwithstanding the use provisions of the underlying district, the following use provisions shall apply
3 in the PAM-EA Subdistrict:

4 (A) Primary Uses, Uses Permitted Outright, Uses Permitted Under Prescribed Conditions, and
5 Conditional Uses allowed in the underlying district may be permitted subject to the underlying dis-
6 trict provisions and criteria of approval, except as provided for in this subsection.

7 (1) Uses identified through the Goal 5 process to be prohibited within the Extraction Area shall
8 not be permitted.

9 (2) Noise or dust sensitive uses not prohibited in (1) may be permitted under the conditional use
10 procedural provisions of MCC .7105 through .7140 when found by the Hearing Authority to
11 satisfy the approval criteria of MCC .6790 and the approval criteria of the underlying district.

12 (3) Conflicting uses required by the Goal 5 process to be conditionally approved may be permit-
13 ted under the procedural provisions of MCC .7105 through .7140 when found by the Hearing
14 Authority to satisfy the approval criteria of MCC .6790 and the approval criteria of the under-
15 lying district.

16 (B) The following uses may be permitted subject to a finding by the Hearing Authority that all stan-
17 dards adopted as part of the Goal 5 process and the provisions of MCC .7305 through .7335 are
18 met. Review by the Hearing Authority shall be under the procedural provisions of MCC .7105,
19 .7107, .7110(A), .7110(B), .7110(D), .7130 and .7135.

20 (1) Mining;

21 (2) Processing, except the batching or blending of aggregate and mineral materials into asphalt
22 concrete within two miles of a planted commercial vineyard existing on the date of condition-
23 al use approval;

24 (3) Stockpiling of aggregate and mineral materials;

25 (4) Sale of mineral products excavated and processed on-site;

26 (5) Storage of equipment or vehicles used in on-site mining or processing;

1 (6) Buildings, structures, and activities necessary and accessory to mining or reclaiming aggregate or mineral resources.

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4 **11.15.6785 Impact Area (PAM-IA) - Allowed Uses**

5 Notwithstanding the use provisions of the underlying district, the following use provisions shall apply
6 in the PAM-IA Subdistrict. Primary Uses, Uses Permitted Outright, Uses Permitted Under Prescribed
7 Conditions, and Conditional Uses allowed in the underlying district may be permitted subject to the
8 underlying district provisions and criteria of approval, except as follows:

9 (A) Uses identified through the Goal 5 process to be prohibited within the Impact Area shall not be
10 permitted;

11 (B) Noise or dust sensitive uses not prohibited in (A) may be permitted under the conditional use pro-
12 cedural provisions of MCC .7105 through .7140 when found by the Hearing Authority to satisfy
13 the approval criteria of MCC .6790 and the approval criteria of the underlying district; and

14 (C) Conflicting uses required by the Goal 5 process to be conditionally approved may be permitted
15 under the procedural provisions of MCC .7105 through .7140 when found by the Hearing
16 Authority to satisfy the approval criteria of MCC .6790 and the approval criteria of the underlying
17 district.

18
19 **11.15.6790 Use Approval Criteria**

20 (A) In acting to approve a Conditional Use subject to these provisions, the Hearing Authority shall find
21 that:

22 (1) The proposed use will not interfere with or cause an adverse impact on lawfully established
23 and lawfully operating mining operations;

24 (2) The proposed use will not cause or threaten to cause the mining operation to violate any
25 applicable standards of this chapter, or the terms of a state agency permit. The applicant for a
26 new noise sensitive use shall submit an analysis prepared by an engineer or other qualified

1 person, showing that applicable DEQ noise control standards are met or can be met by a
2 specified date by the nearby mining operation; and

3 (3) Any setbacks or other requirements imposed through the Goal 5 process have been met, or
4 can be met by a specified date.

5 (B) Approval Conditions.

6 (1) Compliance with the use approval criteria may be satisfied through the imposition of clear
7 and objective conditions of approval.

8 (2) Approval of any conflicting use in the extraction area or impact area shall be conditioned
9 upon execution of a restrictive covenant in favor of the mining operator. The restrictive
10 covenant shall incorporate all approval conditions, and an agreement not to object to the con-
11 duct of lawful operations conducted at the nearby surface mine.

12
13 **11.15.6795 Termination of the Protected Aggregate and Mineral Resources Subdistrict**

14 When the aggregate or mineral site has been reclaimed, the county may rezone land to remove the
15 Protected Aggregate and Mineral Resources Overlay Subdistrict (PAM) without revising the ESEE
16 Analysis for the site. Rezoning shall not relieve requirements on the part of the owner or operator to
17 reclaim the site in accordance with ORS 517.750 through 517.900 and the rules adopted thereunder.

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19 * * *

20
21 **Conditional Uses CU**

22 **11.15.7105 Purposes**

23 Conditional uses as specified in a district or described herein, because of their public convenience,
24 necessity, unique nature, or their effect on the Comprehensive Plan, may be permitted as specified in
25 the district or described herein, provided that any such conditional use would not be detrimental to the
26 adjoining properties or to the purpose and intent of the Comprehensive Plan.

1
2 Certain conditional use provisions of time limits, conditions, restrictions, and approval criteria shall not
3 apply to Mineral Extraction conditional uses.
4

5 **11.15.7107 Mineral Extraction Exemptions from Standards**

6 Mineral Extraction conditional uses are exempted from the provisions of MCC .7110(C), .7110(E),
7 .7115, .7120, .7122, and .7125.
8

9 **11.15.7110 General Provisions**

10 (A) Application for approval of a Conditional Use shall be made in the manner provided in MCC
11 .8205 through .8280.

12 (B) The Approval Authority shall hold a public hearing on each application for a Conditional Use,
13 modification thereof, time extension or reinstatement of a revoked permit.

14 (C) ~~[Except as provided in MCC .7330, t]~~ The approval of a Conditional Use shall expire two years
15 from the date of issuance of the Board Order in the matter, or two years from the date of final reso-
16 lution of subsequent appeals, unless:

- 17 (1) The project is completed as approved, or
18 (2) The Approval Authority establishes an expiration date in excess of the two year period, or
19 (3) The Planning Director determines that substantial construction or development has taken
20 place. That determination shall be processed as follows:
21 (a) Application shall be made on appropriate forms and filed with the Director at least 30
22 days prior to the expiration date.
23 (b) The Director shall issue a written decision on the application within 20 days of filing.
24 That decision shall be based on findings that:
25 (i) Final Design Review approval has been granted under MCC .7845 on the total pro-
26 ject; and

1 (ii) At least ten percent of the dollar cost of the total project value has been expended for
2 construction or development authorized under a sanitation, building or other develop-
3 ment permit. Project value shall be as determined by MCC .9025(A) or .9027(A).

4 (c) Notice of the Planning Director decision shall be mailed to all parties as defined in MCC
5 .8225.

6 (d) The decision of the Planning Director shall become final at the close of business on the
7 tenth day following mailed notice unless a party files a written notice of appeal. Such
8 notice of appeal and the decision shall be subject to the provisions of MCC .8290 and
9 .8295.

10 (D) A Conditional Use permit shall be issued only for the specific use or uses, together with the limita-
11 tions or conditions as determined by the Approval Authority. Any change of use or modification
12 of limitations or conditions shall be subject to approval authority approval after a public hearing.

13 (E) The findings and conclusions made by the approval authority and the conditions, modifications or
14 restrictions of approval, if any, shall specifically address the relationships between the proposal
15 and the approval criteria listed in MCC .7120 and in the district provisions.

16 17 **11.15.7115 Conditions and Restrictions**

18 [~~Except as provided for Mineral Extraction and Processing activities approved under MCC .7305~~
19 ~~through .7325 and .7332 through .7335, t]~~ The approval authority may attach conditions and restric-
20 tions to any conditional use approved. Conditions and restrictions may include a definite time limit, a
21 specific limitation of use, landscaping requirements, off-street parking, performance standards, perfor-
22 mance bonds, and any other reasonable conditions, restrictions or safeguards that would uphold the
23 purpose and intent of this Chapter and mitigate any adverse effect upon the adjoining properties which
24 may result by reason of the conditional use allowed.

1 **11.15.7120 Conditional Use Approval Criteria**

2 (A) A Conditional Use shall be governed by the approval criteria listed in the district under which the
3 conditional use is allowed. If no such criteria are provided, the approval criteria listed in this sec-
4 tion shall apply. In approving a Conditional Use listed in this section, the approval authority shall
5 find that the proposal:

- 6 (1) Is consistent with the character of the area;
- 7 (2) Will not adversely affect natural resources;
- 8 (3) Will not conflict with farm or forest uses in the area;
- 9 (4) Will not require public services other than those existing or programmed for the area;
- 10 (5) Will be located outside a big game winter habitat area as defined by the Oregon Department of
11 Fish and Wildlife or that agency has certified that the impacts will be acceptable;
- 12 (6) Will not create hazardous conditions; and
- 13 (7) Will satisfy the applicable policies of the Comprehensive Plan.

14 ~~[(B) Except for off site stockpiling, subpart (A) of this subsection shall not apply to applications for
15 mineral extraction and processing activities. Proposals for mineral extraction and processing shall
16 satisfy the criteria of MCC .7325.]~~

17
18 * * *

19
20 **Mineral Extraction CU**

21 **11.15.7305 Definitions**

22 As used in this section, the words and their derivations defined in MCC .6765 shall have the meanings
23 given therein.

24 ~~[(A) Mining means the removal of minerals or aggregate material, whether extracted from land or
25 water, by any method, including but not limited to shoveling, blasting, scooping, and dredging.~~

26 ~~(B) Minerals include any and all solid mineral products, metallic and non-metallic, extracted for com-~~

1 ~~mercial, industrial or construction use from natural deposits.~~

2 ~~(C) Aggregate material includes crushed or uncrushed gravel, crushed stone, or sand from natural~~
3 ~~deposits.~~

4 ~~(D) Reclamation Plan shall have the meaning contained in ORS 517.750.~~

5 ~~(E) Noise Sensitive Uses include dwellings, schools, public parks, churches, hospitals, public libraries,~~
6 ~~offices or other similar uses determined to be noise sensitive uses by the Department of~~
7 ~~Environmental Quality.~~

8 ~~(F) Dust Sensitive Uses include dwellings, schools, public parks, churches, hospitals, public libraries,~~
9 ~~offices, food service or other similar uses determined to be dust sensitive uses by the Department~~
10 ~~of Environmental Quality.~~

11 ~~(G) ESEE is an abbreviation for the "Economic, Social, Environmental, and Energy" analysis proce-~~
12 ~~dure for Goal 5 resources described in OAR 660 16 000 through 660 16 025 and which is adopted~~
13 ~~as a part of the Comprehensive Plan.]~~

14
15 **11.15.7310 Board Findings**

16 (A) There is a need to conserve and protect known mineral and aggregate resources for present and
17 future generations.

18 (B) There is a need to plan and make allowances for interim, transitional, and secondary use utilization
19 of mineral and aggregate resource extraction areas.

20 (C) There is a need to promote healthy and visually attractive environments, and to reduce conflicts
21 between different land uses.

22 (D) There is a need to provide regulations in accordance with LCDC Statewide Planning Goals.
23

24 **11.15.7315 Purposes**

25 The purposes of the Mineral Extraction section are to promote the public health, safety and general
26 welfare[,] through the protection of mineral and aggregate resources [all] in accordance with [ORS

1 ~~215, ORS 517, and 522,]~~ LCDC Statewide Planning Goal #5, and the Multnomah County
2 Comprehensive Plan. The regulations ~~[of uses within this district]~~ are designed to:

- 3 (A) Recognize mineral and aggregate resource extraction as a land use influenced largely by the loca-
4 tion of the natural resource and the location of the market;
- 5 (B) Provide maximum flexibility for location of the extraction process within a variety of underlying
6 zones, while at the same time minimizing potentially adverse effects on the public and property
7 surrounding the extraction site;
- 8 (C) Recognize mineral and aggregate resource sites which receive an ESEE designation for protection
9 ~~of "2A", "3A", or "3C"~~ as being appropriate for extraction operations when in compliance with
10 MCC .7325 - .7332; and
- 11 (D) Recognize mineral extraction as a temporary use dependent to a large degree upon market condi-
12 tions and resource size and that reclamation and the potential for future use of the land for other
13 activities must also be considered.

14
15 ~~[11.15.7320 Uses~~

- 16 ~~(A) Extraction of materials including the storage, stockpiling, distribution, and sale thereof;~~
- 17 ~~(B) Installation and operation of plants or apparatus for rock crushing and cement treatment of miner-~~
18 ~~als excavated at the site for which the Conditional Use is being requested, including screening,~~
19 ~~blending, washing, loading, and conveying of materials.~~
- 20 ~~(C) Mining and processing of geothermal resources.~~
- 21 ~~(D) Activities utilizing the extracted minerals such as mixing or batching plants, or manufacturing the~~
22 ~~extracted minerals into finished products.~~
- 23 ~~(E) Structures, facilities and mobile homes for the repair, maintenance, and storage of equipment or~~
24 ~~supplies, office spaces or watchmen, as are reasonably necessary for the conduct of the proposed~~
25 ~~use.]~~
- 26

1 **11.15.7322 Exceptions**

2 Exempted from the requirements of this section are those mineral extraction sites and activities as
3 given in MCC .6760. [which:

- 4 ~~(A) If zoned EFU, produce less than 1,000 cubic yards of material and affect less than one acre, or~~
5 ~~(B) Produce less than 5,000 cubic yards of material and affect less than one acre in any consecutive 12~~
6 ~~month period, and which over time affect less than a total of five acres, or~~
7 ~~(C) Produce materials which are used by the owner or tenant for construction and maintenance of on-~~
8 ~~site access roads, and farming or forest practices.]~~

10 **11.15.7325 Criteria for Approval**

11 The approval authority shall find that:

- 12 (A) The site is ~~[designated "2A", "3A", or "3C" through an ESEE analysis]~~ included on the inventory
13 of protected aggregate and mineral resource sites in the Comprehensive Plan.
- 14 (B) There is a proposed reclamation plan which will allow the property to be utilized as envisioned by
15 the Comprehensive Plan and the underlying district.
- 16 (C) ~~[The following general operation requirements and standards have been, or will be met:]~~ The
17 applicant has shown that the standards of this section, or site-specific requirements adopted as part
18 of a comprehensive plan amendment, can or will be met by a specified date.
- 19 (1) Access and traffic.
- 20 (a) Prior to any surface mining activity, all on-site roads used in the mining operation and all
21 roads from the site to a public right-of-way shall be designed and constructed to accom-
22 modate the vehicles and equipment which will use them.
- 23 (b) All on-site and private access roads shall be paved or adequately maintained to minimize
24 dust and mud generation within 100 feet of a public right-of-way or 250 feet of a *dust*
25 *sensitive* land use.
- 26 (c) No material which creates a safety or maintenance problem shall be tracked or discharged

1 in any manner onto any public right-of-way.

2 (d) The applicant shall submit a traffic management plan which identifies [y] the most com-
3 monly used routes of travel from the site and contains the following components: Traffic
4 Study Section, Operational Study Section, Pavement and Other Structures Study Section,
5 System Condition Conclusions and Improvement Alternatives Analysis Section, and
6 Economy/Cost Responsibility Study Section. [and t] The County Engineer shall review
7 the Traffic Management Plan and shall certify, based on findings relating to the
8 Multnomah County Rules for Street Standards, that those roads:

9 (i) Are adequate to safely accommodate any additional traffic created by the extraction
10 operation for the duration of the activity, or

11 (ii) Are inadequate to safely accommodate any additional traffic created by the extraction
12 operation for the duration of the activity, but the applicant has committed to finance
13 installation of the necessary improvements under the provisions of 02.200(a) or (b)
14 of the *Multnomah County Rules for Street Standards*.

15 (iii) Satisfy any requirements that may be contained in the site-specific Comprehensive
16 Plan Program.

17 (2) Screening, landscaping and visual appearance.

18 (a) All existing vegetation and topographic features which would provide screening and
19 which are within 50 feet of the boundary of the proposed area of extraction shall be pre-
20 served.

21 (b) If the site-specific Goal 5 analysis determines that existing [natural] vegetation and
22 topography is [found to be] insufficient to obscure [views of] the site from existing noise
23 and dust sensitive conflicting uses, the site shall be screened with landscape berms,
24 hedges, trees, walls, fences or similar features. Required screening shall be in place prior
25 to commencement of the extraction activities.

26 (c) The Approval Authority shall grant exceptions to the screening requirements [only upon

1 ~~finding that] if:~~

- 2 (i) The proposed extraction area is not visible from any [~~dwelling, school, public park,~~
3 ~~church, hospital, public library, or publicly maintained road]~~ noise and dust sensitive
4 conflicting uses existing on the date of application, or
- 5 (ii) Screening will be ineffective because of the topographic location of the site with
6 respect to surrounding properties, or
- 7 (iii) The area is part of the completed portion of a reclamation plan.

8 (3) Signing.

9 Signing shall be controlled by the standards of MCC .7932(A)-(D), except that only one sign
10 for each point of access to each differently named improved street may be allowed for any
11 operation not in a GC, EC, LM, GM, HM, C-2, M-4, M-3, M-2, and M-1 district.

12 (4) If no {H} hours and days of operation are contained in the site-specific Comprehensive Plan
13 Program, the following shall apply: [.]

14 (a) Operating hours shall be ~~allowed~~ from 7:00 am to 6:00 pm. No operation shall be allowed
15 on Sundays or on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving
16 Day, and Christmas Day.

17 (b) [~~(a) The Approval Authority may allow alternative hours on sites for which the ESEE anal-~~
18 ~~ysis has identified other potential operating time periods;]~~ Blasting shall be restricted to
19 the hours of 9:00 am to 5:00 pm. No blasting shall be allowed on Saturdays, Sundays or
20 on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and
21 Christmas Day.

22 (c) [~~(b)~~] Short-term exceptions to the hours and days of operation may be approved pursuant to
23 the provisions of MCC .8705.

1 (5) Air, water, and noise quality.

2 (a) ~~[The discharge of airborne contaminants and dust created by the extraction operation shall~~
3 ~~comply with the air quality standards established by the Department of Environmental~~
4 ~~Quality.]~~ The applicant shall obtain and comply with the standards of all applicable emis-
5 sion discharge permits from the Department of Environmental Quality. Copies of all
6 required permits shall be provided to the county prior to beginning mining.

7 (b) ~~[Sedimentation and erosion resulting from the extraction operation shall comply with the~~
8 ~~standards established by the Department of Environmental Quality.]~~ The applicant shall
9 obtain and comply with the standards of all applicable waste water discharge permits
10 from the Department of Environmental Quality. Copies of all required permits shall be
11 provided to the county prior to beginning mining.

12 (c) Sound generated by an operation shall comply with the noise control standards of the
13 Department of Environmental Quality. Compliance with the standards can be demonstrat-
14 ed by the report of a certified engineer. Methods to control and minimize the effects of
15 sound generated by the operation on [off site locations] *noise sensitive* uses existing or
16 approved (valid action or administrative decision) on the date of application may include,
17 but not be limited to, the installation of earth berms, equipment location, limitations on
18 the hours of operation, and relocation of access roads.

19 (6) Fish and wildlife protection.

20 (a) Fish and wildlife habitat [~~identified by~~] inventoried in the Comprehensive Plan [~~, or rec-~~
21 ~~ognized as significant by an ESEE analysis, or found to be significant during project~~
22 ~~review]~~ shall be protected [~~to the maximum possible~~] according to the program contained
23 in the Comprehensive Plan. [~~Where appropriate, such habitat may be mitigated by such~~
24 ~~enhancement measures as the provision of additional feed and cover for wildlife or fish~~
25 ~~stream habitat.~~

26 (b) The extent of the operation's impact on and the importance of the fish and wildlife values

1 present shall be determined in consultation with the State Department of Fish and
2 Wildlife.

3 (c) Streamside riparian vegetation shall be retained for all streams not a part of direct extrac-
4 tion activities.

5 (7) Setbacks.

6 (a) For mineral and aggregate processing activities:

7 (i) 200 feet to a property line, or

8 (ii) 400 feet to a *noise sensitive* land use existing or approved (valid action or administra-
9 tive decision) on the date of application [February 20, 1990];

10 (b) For access roads and residences located on the same parcel as the mining or processing
11 activity, setbacks shall be as required by the underlying district; and

12 (c) For mineral extraction and all other activities:

13 (i) 50 feet to a property line, or

14 (ii) 250 feet to a *noise sensitive* land use existing or approved (valid action or administra-
15 tive decision) on the date of application [February 20, 1990].

16 ~~(8) Reclaimed Topography.~~

17 ~~All final reclaimed surfaces shall be stabilized by sloping, benching, or other ground control~~
18 ~~methods. Reclaimed surfaces shall blend into the natural landforms of the immediately sur-~~
19 ~~rounding terrain.~~

20 ~~(9) Blasting shall be restricted to the hours of 9:00 am to 5:00 pm, Monday through Saturday.]~~

21 (8 [10]) Safety and security.

22 Safety and security measures, including fencing, gates, signing, lighting, or similar measures,
23 shall be provided to prevent public trespass to identified hazardous areas such as steep slopes,
24 water impoundments, or other similar hazard where it is found that such trespass is probable
25 and not otherwise preventable.

26 ~~(11) Phasing program.~~

1 ~~All phases of an extraction operation shall be reclaimed before beginning the next, except~~
2 ~~where the Approval Authority finds that the different phases cannot be operated and reclaimed~~
3 ~~separately.]~~

4 ~~[(12) Reclamation Schedule-~~

5 ~~The reclamation plan shall include a timetable for continually reclaiming the land. The~~
6 ~~timetable shall provide for beginning reclamation within twelve (12) months after extraction~~
7 ~~activity ceases on any segment of the mined area and for completing reclamation within three~~
8 ~~(3) years after all mining ceases.]~~

9 (D) The proposed operations will not result in the creation of a geologic hazard to surrounding proper-
10 ties, such as through slumping, sliding, or drainage modifications, and have been certified by a
11 registered soils or mining engineer, or engineering geologist as meeting this requirement.

12 (E) Proposed blasting activities will not adversely affect the quality or quantity of groundwater within
13 wells in the vicinity of the operation.

14 (F) ~~[Conditional or preliminary approval for all phases of the proposed operation, including reclama-~~
15 ~~tion, has been received from all governmental agencies having jurisdiction over mineral extraction,~~
16 ~~and the applicable requirements in ORS 517 and ORS 522 have been complied with.]~~

17 If the site is zoned Exclusive Farm Use (EFU), the proposed operations:

18 (1) Will not force a significant change in accepted farm or forest practices on surrounding lands
19 devoted to farm or forest use; and

20 (2) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to
21 farm or forest use.

22 (G) If the site is zoned Commercial Forest Use (CFU):

23 (1) The proposed operations will not force a significant change in, or significantly increase the
24 cost of, accepted farming or forest practices on agriculture or forest lands;

25 (2) The proposed operations will not significantly increase fire hazard or significantly increase
26 fire suppression costs or significantly increase risks to fire suppression personnel; and

1 (3) A written statement recognizing the rights of adjacent and nearby property owners to conduct
2 accepted forest practices has been recorded with the property deed in accordance with OAR
3 660-06-025 (1994).

4 ~~[(G) The Approval Authority may establish a program for periodic monitoring and reporting.]~~

5
6 ~~**[11.15.7328 Operation Limitations**~~

7 ~~On sites with an ESEE analysis designation of "3C" the Approval Authority may place restrictions on~~
8 ~~extraction activities found to impact other Statewide Planning Goal 5 resources, noise sensitive uses,~~
9 ~~and other conflicting uses identified in the ESEE analysis. Restrictions may include limitations on the~~
10 ~~operating season and size or location of extraction activity, among others. Restrictions shall be site~~
11 ~~specific and directly related to the findings of the ESEE analysis and shall consider the need to balance~~
12 ~~the importance of the competing resources and conflicting uses against the mineral and aggregate~~
13 ~~resource.]~~

14
15 ~~**[11.15.7329 Off-Site Stockpiling and Processing**~~

16 ~~Stockpiling, processing, and distribution activities listed in MCC .7320, related to but not including~~
17 ~~extraction, may be approved by the Approval Authority under the procedural provisions of MCC .7110~~
18 ~~through .7120 on sites other than ESEE designated "2A", "3A", and "3C" resource locations upon a~~
19 ~~finding that the applicable standards of MCC .7325 are satisfied.]~~

20
21 ~~**[11.15.7330 Time Limit**~~

22 ~~A Conditional Use permit hereunder shall be valid for a maximum of five years from date of final~~
23 ~~approval. The Approval Authority may allow a time limit of a maximum of ten years on sites for which~~
24 ~~the ESEE analysis has identified a longer potential time limit. The applicant may apply for renewal not~~
25 ~~less than 90 days prior to the expiration of such permit. The renewal application may be denied,~~
26 ~~approved subject to previous conditions, or approved subject to new conditions in light of the follow-~~

1 ~~ing factors, among others:~~

2 ~~(A) Previous impacts of the use upon surrounding lands and activities;~~

3 ~~(B) Changes in technology and activities of the operation which will impact the surrounding lands and~~
4 ~~activities, and~~

5 ~~(C) Compliance with MCC .7325 and conditions of approval.]~~

6
7 **11.15.7331 Site Reclamation**

8 ~~(A) No mining shall begin without the operator providing the county a copy of a DOGAMI operating~~
9 ~~permit and approved reclamation permit or exemption certificate.~~

10 ~~(B) When approving an application under this section the county shall determine the post-mining use~~
11 ~~of the property. The determination of post-mining use shall be coordinated with DOGAMI to~~
12 ~~ensure technical feasibility. The designated post-mining use shall conform to the Comprehensive~~
13 ~~Plan.~~

14
15 **11.15.7332 Monitoring**

16 ~~The Planning Director shall periodically monitor all extraction operations. The beginning dates and fre-~~
17 ~~quency of monitoring shall be determined by the Approval Authority based upon any such requirement~~
18 ~~in the Comprehensive Plan Program and upon the number and type of *noise* and *dust sensitive* land~~
19 ~~uses, and other Goal 5 resources identified in the *ESEE Analysis*. If the Director determines that an~~
20 ~~extraction operation is not in compliance with MCC .7325 or site-specific requirements of the~~
21 ~~Comprehensive Plan Program, such enforcement proceedings deemed appropriate by the Multnomah~~
22 ~~County Legal Counsel shall be instituted to require compliance.~~

23
24 **11.15.7335 Existing Operations**

25 ~~All mineral extraction uses that have been approved under MCC .5575, .5580, and .7305 through~~
26 ~~.7335, prior to July 26, 1979, shall continue to comply with the ~~[following requirements:]~~ zoning stan-~~

dards and conditions of approval imposed at the time of approval.

~~[(A) No production from an open pit or the removal of sand or gravel shall leave a slope exceeding one foot horizontal for one foot vertical.~~

~~(B) No mining, quarrying, excavating or processing of material shall be permitted closer than 100 feet from the boundaries of a Natural Resource, Rural, Residential, Office or Commercial district.~~

~~(C) Properties to be used for surface mining shall be enclosed on the boundaries by a sight obscuring fence, except for reasonable areas of access and egress, as designated by the approval authority.~~

~~(D) No permanent structure, such as rock crusher, washer or sorter, shall be located closer than 500 feet from any district boundary.~~

~~(E) Any conditions of operation imposed as a result of previous zoning controls or regulations shall continue.]~~

* * *

Fees

11.15.9005 Payment

All fees are payable at the time of application.

11.15.9010 Action Proceedings

(A) Change of zone classification

(1) Rural, Urban Future and Urban Low and Medium Density Residential:

One acre or less \$500.00

Each additional acre 50.00

(2) Apartment Residential and Urban High Density Residential:

One acre or less 1,000.00

Each additional acre 50.00

1	(3) Commercial or Industrial	1,000.00
2	(B) [Planned Developments] <u>Special District designation (LF, OP, PD, HP, SPA, PAM)</u>	
3	One acre or less	1,000.00
4	Each additional acre	50.00
5	Maximum charge	5,000.00

7 * * *

10 Section III. Adoption.

11 ADOPTED THIS _____ day of _____, 1994, being the date of its _____
 12 reading before the Board of County Commissioners of Multnomah County.

16 (S E A L)

19 By _____
 20 Beverly Stein
 21 Multnomah County Chair

22 REVIEWED:
 23 JOHN DUBAY, CHIEF ASSISTANT COUNTY COUNSEL
 24 for MULTNOMAH COUNTY, OREGON

24 By _____



MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES
DIVISION OF PLANNING
AND DEVELOPMENT
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BOARD OF COUNTY COMMISSIONERS
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DAN SALTZMAN • DISTRICT 1 COMMISSIONER
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TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

MEMORANDUM

TO: Board of County Commissioners
FROM: Planning Staff
Division of Planning and Development
DATE: October 14, 1994
SUBJECT: Proposed Mining Regulation Ordinance

BOARD OF
COUNTY COMMISSIONERS
1994 OCT 14 PM 4:12
MULTNOMAH COUNTY
OREGON

At the October 11, 1994 Board of County Commissioners first reading and public hearing on the proposed mining ordinance, the Board requested additional information and suggested language changes for some issues. Following is a partial listing of those issues. The remainder of the issues are being researched by planning staff and/or County Counsel and will be available before any third reading.

Where changes to the wording of the ordinance dated 9/26/94 is given, those recommendations will be in the format of underlined new language and ~~crossed through words~~ to be deleted. (The 9/26/94 ordinance sections are transferred to this memo in plain type and do not reflect amendments of the existing code as shown in the actual ordinance.)

ITEM 1. Replace the word “operator” with “owner’s representative”.

Page 3; Lines 17 to 18; Plan Policy 16-B, Strategies, D, 2

2. When a record owner ~~landowner~~ or the authorized agent of the record owner ~~operator~~ submits information concerning the ~~potential~~ significance of a resource site and applies for a comprehensive plan amendment.

DISCUSSION: MCC 11.05.140(A)(3) uses the terms “record owner and authorized agent” for parties that can initiate a plan revision. The word “potential” is not needed.

ITEM 2. Regulation of "Exempt Mining Activity"

Page 4; Lines 19 to 25; Plan Policy 16-B, Strategies, I

- I. The following activities are exempt from the approval requirements and development standards of this policy:
1. Mining auxiliary to forest practices;
 2. In the Exclusive Farm Use (EFU), Rural Residential (RR), Rural Center (RC), and all Urban Residential Districts zone, mining less than 1,000 cubic yards of material or mining an area of less than one acre;
 3. In all other districts zones, mining less than 5,000 cubic yards of material or disturbing less than one acre of land within a period of 12 consecutive months until mining affects five or more acres.
 4. Mining activities as given in 2 and 3 are not exempt from the requirement to obtain other applicable permits including, but not limited to, a Hillside and Erosion Control permit, a Significant Environmental Concern permit, and a Flood Plain permit.

Page 8; Lines 18 to 26; MCC 11.15.6760

11.15.6760 Exemptions

The following activities are exempt from the requirements of this section. Operators or land owners have the burden of qualifying for any exemption.

- (A) In EFU, RR, RC, and all Urban Residential Districts ~~exclusive farm use zones~~, mining less than 1,000 cubic yards of material or mining an area of less than one acre;
- (B) In all other Districts zones, mining less than 5,000 cubic yards of material or disturbing less than one acre of land within a period of 12 consecutive months until mining affects five or more acres;
- (C) Mining on forest lands auxiliary to forestry operations occurring in compliance with the Forest Practices Act as administered by the Oregon Department of Forestry;
- (D) Mining activities as given in (A) and (B) are not exempt from the requirement to obtain other applicable permits including, but not limited to, a Hillside and Erosion Control permit, a Significant Environmental Concern permit, and a Flood Plain permit.

DISCUSSION: The Board raised two concerns regarding this issue. First, was the preference of the Board to regulate in some manner this scale of mining which is exempt from DOGAMI requirements for reclamation. This objective can be met by requiring that these smaller mines obtain a Hillside and/or Erosion Control Permit from the County and any applicable Significant Environmental Concern Permit. Mining on forest lands auxiliary to forestry operations, by statute, cannot be regulated by Counties.

Secondly, there was concern expressed as to whether the 5,000 cubic yards per year limit would be too large a scale of operation in a residential area. An option in this regard is to add residential zones to the limitation of 1,000 cubic yards for the Exclusive Farm Use Zone.

ITEM 3. County participation with DOGAMI in review of a reclamation permit proposal.

Page 6; Lines 6 to 8; Plan Policy 16-B, Strategies, Q

Q. Unless specifically determined on a case by case basis, it shall be the policy of the county, that DOGAMI delay its final decision on approval of a reclamation plan and issuance of an operating permit until the county decides all comprehensive plan amendments and/or conditional use approvals. It is also the policy of Multnomah County to participate in and cooperate with DOGAMI in their review of a permit application to that agency.

DISCUSSION: Language very similar to this is in the two recently adopted aggregate "Reconciliation Reports".

ITEM 4. Hours of Operation

Page 24; Lines 12 to 16; MCC 11.15.7325(C)(4)

(4) If no hours and days of operation are contained in the site-specific Comprehensive Plan Program, the following shall apply:

- (a) Operating hours shall be allowed from 7:00 am to 6:00 pm. No operation shall be allowed on Sundays or on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas Day.

DISCUSSION: The word "allowed" was deleted only because it was thought to be unnecessary — it was assumed the operator would have the option of setting his own hours within the time frame given.

ITEM 5. Beginning Mining with DOGAMI and DEQ permits

Page 6; Lines 9 to 11; Plan Policy 16-B, Strategies, R

R. No surface mining or processing activity, as defined by the zoning ordinance, shall begin without land use approval from the county, and approval of a reclamation plan and issuance of an operating permit by DOGAMI and Department of Environmental Quality.

DISCUSSION: Presented by Board Staff at first reading.

ITEM 6. Add Dust Sensitive Land Uses in Section on Setbacks for Mining Activities

Page 26; Lines 8 to 9; MCC 11.15.7325(C)(7)(a)(ii)

(ii) 400 feet to a *noise and dust sensitive* land use existing or approved (valid action or administrative decision) on the date of application ;

Page 26; Lines 14 to 15; MCC 11.15.7325(C)(7)(c)(ii)

(ii) 250 feet to a *noise and dust sensitive* land use existing or approved (valid action or administrative decision) on the date of application.

DISCUSSION: Presented by Board Staff at first reading.

ITEM 7. Screening of mine sites from "noise and dust sensitive" land uses

Page 23; Lines 21 to 25; MCC 11.15.7325(C)(2)(b)

(b) If the site-specific Goal 5 analysis determines that existing vegetation and topography is insufficient to obscure the site from identified key viewing areas and corridors ~~existing noise and dust sensitive conflicting uses~~, then measures as identified in the Goal 5 analysis to reduce or eliminate conflicts shall be implemented. ~~site shall be screened with~~ Methods of screening may include landscape berms, hedges, trees, walls, fences or similar features. ~~Any~~ ~~R~~ required screening shall be in place prior to commencement of the extraction activities.

DISCUSSION: The terms "noise and dust sensitive" land uses was used only as a short hand way to avoid listing "residences, churches, hospitals, schools, public libraries, and campgrounds". There was no intention of trying to make any correlation between noise and dust with visibility concerns. After further review of this provision, staff recommends the above changes to match the terms and methods of determining scenic views in the West Hills Reconciliation Report.

ITEM 8. Transportation Requirements

Page 22; Lines 16 to 18; MCC 11.15.7325(C)

The applicant has shown that the standards of this section, or site-specific requirements adopted as part of a comprehensive plan amendment, can or will be met by a specified date.

Page 23; Lines 2 to 16; MCC 11.15.7325(C)(1)(d)

(d) The applicant shall submit all traffic information and traffic management plans required in any site-specific Comprehensive Plan Program. The County Engineer shall review the submitted plans and shall certify, based on findings relating to the *Multnomah County Rules for Street Standards*, that the roads identified in the Plan:

(i) Are adequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity, or

(ii) If the roads are inadequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity that:

: The applicant has committed to finance installation of the necessary improvements under the provisions of 02.200(a) or (b) of the *Multnomah County Rules for Street Standards*, and

: A program has been developed for the numbers and weight of trucks from the site that can safely be accommodated at specific levels of road improvement. Based upon those findings, the Hearing Authority may attach related conditions and restrictions to the conditional use approval.

(e) If there are no traffic management requirements in the site-specific Comprehensive Plan Program requirements, ~~T~~ the applicant shall submit a traffic management plan which identifies the most commonly used routes of travel from the site, and contains the following components: Traffic Study Section, Operational Study Section, Pavement

~~and Other Structures Study Section, System Condition Conclusions and Improvement Alternatives Analysis Section, and Economy/Cost Responsibility Study Section.~~ The County Engineer shall review the Traffic Management Plan and shall certify, based on findings relating to the *Multnomah County Rules for Street Standards*, that those roads:

- (i) Are adequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity, or
- (ii) If the roads are inadequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity that:
 - The applicant has submitted a traffic management plan that is sufficient for the County Engineer to make relevant findings regarding necessary road improvements;
 - ~~but~~ The applicant has committed to finance installation of the necessary improvements under the provisions of 02.200(a) or (b) of the *Multnomah County Rules for Street Standards* ; and
 - A program has been developed for the numbers and weight of trucks from the site that can safely be accommodated at specific levels of road improvement. Based upon those findings, the Hearing Authority may attach related conditions and restrictions to the conditional use approval.
- (iii) ~~Satisfy any requirements that may be contained in the site specific Comprehensive Plan Program.~~

DISCUSSION: The above changes are suggested to address the Boards concerns about: (1) ensuring that applicants who have no traffic related issues regarding the proposed site are not required to submit a traffic management plan, (2) retaining some "trigger" that could require such a study if traffic problems were missed at the time of the ESEE analysis, and (3) clarifying the timing of heavy truck use of the roads in relation to certain levels of road improvement.

REMAINING ISSUES

Listed below are issues raised during the first reading for which staff does not yet have a recommendation. Staff is working with County Counsel on these issues and in making this list staff is not asking for action or a response from the Board at this time.

1. **County regulation of mining reclamation.** After the county has approved a conditional use request for a mining operation, participated with DOGAMI in the review of a proposed reclamation plan, and DOGAMI has issued their permit, then what authority does the county have in controlling and or curtailing mining activities conducted under that DOGAMI permit? Page 26, Lines 16-19&26; Page 27, Lines 1-8.

The proposed ordinance on page 22, lines 16-18 requires a conditional use application to address and comply with all site-specific requirements adopted as part of the ESEE Analysis and Program in the Comprehensive Plan. Additional backing for that regulation is in the Plan Policies on page 5, lines 23-26. It is difficult and probably unnecessary to attempt to

draft language in the zoning code that would control how every site should be mined, any particular problems anticipated at any site can be addressed in the Comprehensive Plan and then examined in detail in review of the conditional use application.

On page 29, lines 15-22 is a section titled "Monitoring" which sets up an operational monitoring program at the time of conditional use approval. Language in the section also states: "If the Director determines that an extraction operation is not in compliance with MCC .7325 or site-specific requirements of the Comprehensive Plan Program, such enforcement proceedings deemed appropriate by the Multnomah County Legal Counsel shall be instituted to require compliance."

2. **Fish and Wildlife Protection.** Page 25, lines 19-26 and page 26, lines 1-4; MCC 11.15.7325(C)(6). What provisions of this section are inconsistent with the LCDC Remand Order or the Goal 5 Rules? The Remand Order reads on this issue: "Amend, as necessary, in accordance with Goal 5 and the Goal 5 rule the following provisions: ... MCC 11.15.7325(C) requiring protection of fish and wildlife habitat without supporting justification in a site-specific ESEE analysis. ..."

DLCD staff has suggested that the wording in paragraph (C)(6)(a) meets the remand order requirement, but that paragraphs (b) and (c) should be deleted. The Planning Commission recommended to the Board to retain (b) and (c).

3. **Is the definition of "Conflicting Use" in conformance with current case law?** Page 9, lines 5-9; MCC 11.15.6765(A). The definition is taken verbatim from a DLCD model ordinance.
4. **Is the definition of "ESEE Analysis" in conformance with current case law?** Page 9, lines 14-17; MCC 11.15.6765(C). The definition is taken verbatim from a DLCD model ordinance.
5. **Is the definition of "Impact Area" in conformance with current case law?** Page 9, lines 25-26 and page 10, line 1; MCC 11.15.6765(F). The definition is taken verbatim from a DLCD model ordinance.
6. **Is the definition of "Significant Site" in conformance with the Goal 5 Rule?** Page 11, lines 6-19; MCC 11.15.6765(M). The definition is taken verbatim from a DLCD model ordinance except that "one million cubic yards" has been inserted where the model had a blank line to fill in an amount.
7. **Is the use of the word "adjacent" in the description of the Impact Area in conformance with current case law?** Page 12, lines 4-6; MCC 11.15.6770(B). The DLCD model ordinance includes the word "adjacent" in describing where to place an Impact Area Overlay Zone.



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M E M O R A N D U M

TO: Board of County Commissioners
Beverly Stein, Chair
Tanya Collier
Gary Hansen
Sharron Kelley
Dan Saltzman

FROM: John L. DuBay

DATE: October 18, 1994

RE: Code amendments for periodic review

1994 OCT 18 AM 10:35
MULTNOMAH COUNTY
OREGON

Here's my analysis of Arnold Rochlin's objections to the proposed ordinance. These comments only address the items alleged to be "unlawful."

1. A proposed amendment to comprehensive plan Policy 16-B Strategies states the County will evaluate the quantity, quality and location of potential aggregate sites either during periodic review or "[w]hen a landowner or operator submits information concerning the potential significance of a resource site and applies for a comprehensive plan amendment." Rochlin contends an amendment is required because an operator cannot initiate a comprehensive plan amendment.

Neither statute nor state regulations control who may initiate comprehensive plan amendments. Our code does. It states comprehensive plan amendments can be initiated by the Board, the Planning Commission, or the owner or owner's authorized agent. MCC 11.05.140. Although the plan strategy would not create a right in others to initiate a change, the reference to an operator's application for a plan change is not accurate. Removing the reference could avoid confusion.

2. Rochlin states the proposed Policy 16-B Strategy E is unlawful because it is inconsistent with LCDC's Goal 5 rules.

The rules require a determination of significance to include some consideration of a site's resource quality and quantity compared to other resource sites. The rules do not limit a finding of significance only to the site with the highest quality or quantity. Sites with various quantities or qualities of any resource can be considered significant. However, the rules do require the process include a comparison of quality and quantity at other sites if the information is available or obtainable.

Strategy E states a site will be considered significant if more than one million cubic yards of aggregate at the site meets ODOT's standards for road construction use. Without more information, either in the plan or supporting documents, showing how this two prong test was derived, it lacks any consideration of comparative data.

Also, the reference to the ODOT standards weakens the definition. ODOT has no adopted standards. If reference to a particular test is desired, and it is based on comparative data, the test should be described specifically, including the date it was promulgated.

I recommend strategy E be deleted and strategy F be amended to read:

"The county will judge the significance of mineral and aggregate resources on a case by case basis, under the standards and procedures in LCDC's Goal 5 interpretive rules."

3. Rochlin contends a proposed definition of "conflicting use" applicable in two zoning districts is unlawful. He states the definition is too narrow and must also include non-resource uses that could suffer negative impacts from use of the protected resource.

The first sentence in the proposed definition states: "[a] use in the underlying zone which, if allowed, could adversely affect operations at a protected aggregate and mineral resource site." This sentence closely follows the definition in the rule: "[a] conflicting use is one which, if allowed, could negatively impact a Goal 5 resource site." OAR 660-16-005(1). The definitions are essentially the same.

Rochlin then asserts that because the ESEE analysis requires consideration of the impacts on conflicting uses by the Goal 5 resource, the definition of "conflicting use" must be enlarged.

Rochlin's point is true that the ESEE analysis must consider the effect of the resource site on conflicting uses. As stated in Eckis v. Linn County, 19 Or LUBA 15, 31 (1990):

"Under OAR 660-16-005, the county is required to address the impacts of the proposed Goal 5 resource site use on the identified conflicting uses, as well as the impacts of the conflicting uses on the resource site use." (Emphasis in original)

That said, no rule or case holds this reciprocal evaluation of ESEE consequences requires a change in the definition of "conflicting use." None is necessary because the end result of the ESEE process is a balancing of impacts that the conflicting uses and the resource site have on each other.

No change is necessary, although Rochlin's suggested addition would not be harmful.

4. Rochlin contends the definition of "ESEE Analysis" rewrites LCDC's rules. The rules, however, do not define "ESEE analysis." They do say "[b]oth the impacts on the resource site and on the conflicting use must be considered in analyzing the ESEE consequences." OAR 660-16-005(2). The proposed definition is a characterization of that requirement in the context of an aggregate resource analysis. While unartfully phrased, the definition does not, and cannot, alter the specific rule requirement to make the reciprocal analysis.

No change is necessary. Further, simply deleting "to displace mining" as Rochlin suggests would make the definition worse.

5. Rochlin next challenges the proposed definition of "impact area." The term is not defined by statute or rule. LCDC's rule merely requires that the inventory include a map of the resource site and the impact area to be affected, if different. In a case where a county designated a resource site without designating a different impact area, LUBA concluded an impact area is the area where uses may occur that could adversely affect the resource site or be adversely affected by the resource site. Portland Audubon v. Clackamas County, 14 Or LUBA 433, 442, aff'd 80 Or App 593 (1986). (This is the definition favored by Rochlin.) LUBA there held an impact area coterminous with the resource site was acceptable.

The proposed definition inserts some concepts not present in LUBA's definition. For example, an impact area need not surround

a resource site; conflicts between the resource site and other uses need not be direct; and the conflicting uses are not the only use which may be regulated as a result of the ESEE analysis. I recommend LUBA's definition be substituted for the proposed definition.

6. Rochlin again objects to the definition of "significant site" for the same reasons as the objection to use of the two prong test proposed for Policy 16-B. For the reasons stated in paragraph 2, above, the language should be changed.

7. Last, Rochlin alleges the first sentence of proposed MCC 11.15.6770(B) improperly limits impact areas to all or parts of parcels within or adjacent to extraction areas.

Whether or not an impact area outside the resource area must be adjacent to the resource site has not been mandated by regulation or case law. The proposed language is not prohibited although the issue could be raised in the context of a particular Goal 5 analysis.

Given the lack of regulatory or precedential guidance, I do not believe a change is necessary.

SHARRON KELLEY
Multnomah County Commissioner
District 4



Portland Building
1120 S.W. Fifth Avenue, Suite 1500
Portland, Oregon 97204
(503) 248-5213

MEMORANDUM

To: Board of Commissioners
From: Commissioner Sharron Kelley
Re: Agenda Item P-2
Date: October 18, 1994

1994 OCT 18 AM 11:11
MULTNOMAH COUNTY
OREGON
BOARD OF
COUNTY COMMISSIONERS

1. Sites of Less Than 5000 Cubic Yards Annually

On Friday, planning staff circulated a draft of changes to the approval process for gravel operations less than 5000 cubic yards annually. The amendments clarify that all sites of this size except those ancillary to mining operations would be subject Hillside and Erosion Control permits, SEC permits, and Flood Plain permits. In addition:

*The draft would allow operations in EFU, urban residential, rural center and rural residential zones of less than 1000 cubic yards; and

*The draft would allow operations in all other zones if less than 5000 cubic yards annually (the current size of Howard Canyon).

On Monday, we held a meeting attended by Charlie Ciecko of Metro Parks, Sharon Timko, Gary Clifford, Gordon Howard, Robert Trachtenberg and myself in which several concerns were raised. There may be numerous properties with the capability to conduct gravel operations of this size. These operations may create traffic problems, social conflicts with neighbors, and reclamation control would be limited to the erosion issue.

To address these concerns, Gary Clifford has drafted an alternative approach (attached) consistent with our discussion yesterday. Under this approach:

*Mining operations would not be permitted in rural residential, rural center, and urban residential districts; and

*In other districts, mining operations between 1000 and 5000 cubic yards annually would be subject to the conditional use permit process. This would allow review for consistency with the character of the area and traffic impacts as well as the

imposition on stronger reclamation requirements. Sites of less than 1000 cubic yards in these districts would not be subject to the conditional use process.

2. Site Distance Requirements

We also discussed a number of the other changes suggested by Metro. Metro had proposed different site distance requirements on the basis of Charlie's experience of working in close proximity to a gravel operations site.

*On page 23, line 19, change the vegetation screening from 50 to 100 feet;

*On page 26, line 13, the setback for mineral extraction should be 100 feet to a property line, not 50 feet;

*On page 26, line 14, the setback to a noise or dust sensitive use should be 400 feet, not 250 feet.

A 50-foot separation is considered minimal, not much deeper than a single tree. We have previously recognized a 1200 foot sound impact area, and Charlie has observed substantial dust travelling in excess of 250 feet.

These requirements would not apply to pre-existing sites, and they can be raised or lowered in the context of an ESEE. The requirements would apply if the ESEE does not address the issue.

Board of County Commissioners
October 14, 1994
Page 2

10/18/94
P-2

1994 OCT 18 AM 10:53
MULTNOMAH COUNTY
OREGON
BOARD OF
COUNTY COMMISSIONERS

ITEM 2. Regulation of "Exempt Mining Activity"

Page 4; Lines 19 to 25; Plan Policy 16-B, Strategies, I

- I. The following activities are exempt from the approval requirements and development standards of this policy:
 1. Mining auxiliary to forest practices, †
 2. In all Districts, except the Exclusive Farm Use (EFU) Rural Residential (RR), Rural Center (RC), and all Urban Residential Districts zone, mining less than 1,000 cubic yards of material or mining an area of less than one acre. The mining activity is not exempt from the requirement to obtain other applicable permits including but not limited to, a Hillside and Erosion Control permit, a Significant Environmental Concern permit, and a Flood Plain permit. †
 3. In all other zones Districts, except Rural Residential (RR), Rural Center (RC), and all Urban Residential Districts, mining more than the limitations in 2 above, but less than 5,000 cubic yards of material or disturbing less than one acre of land within a period of 12 consecutive months until mining affects five or more acres. This level of mining activity shall require approval by the Hearing Authority as a conditional use action proceeding pursuant to the general conditional uses provisions (MCC 11.15.7105 through .7140). The mining activity is also not exempt from the requirement to obtain other applicable permits including, but not limited to, a Hillside and Erosion Control permit, a Significant Environmental Concern permit, and a Flood Plain permit.

Page 8; Lines 18 to 26; MCC 11.15.6760

11.15.6760 Exemptions

The following activities are exempt from the requirements of this section. Operators or land owners have the burden of qualifying for any exemption.

- (A) In all Districts, except RR, RC, and all Urban Residential Districts exclusive farm use zones, mining less than 1,000 cubic yards of material or mining an area of less than one acre. The mining activity is not exempt from the requirement to obtain other applicable permits including but not limited to, a Hillside and Erosion Control permit, a Significant Environmental Concern permit, and a Flood Plain permit. †
- (B) In all other Districts zones, except RR, RC, and all Urban Residential Districts, mining more than the limitations in (A), but less than 5,000 cubic yards of material or disturbing less than one acre of land within a period of 12 consecutive months until mining affects five or more acres. This level of mining activity shall require approval by the Hearing Authority as a conditional use action proceeding pursuant to the general conditional uses provisions of MCC 11.15.7105 through .7140. The mining activity is also not exempt from the requirement to obtain other applicable permits including, but not limited to, a Hillside and Erosion Control permit, a Significant Environmental Concern permit, and a Flood Plain permit. †
- (C) Mining on forest lands auxiliary to forestry operations occurring in compliance with the Forest Practices Act as administered by the Oregon Department of Forestry. †

Page 17; Lines 2 to 7; MCC 11.15.7105 and .7107 General Conditional Uses (Not the Mining Conditional Use Section, which starts at MCC 11.15.7305)

Except as provided in MCC 11.15.6760(B), certain conditional use provisions of time limits, conditions, restrictions, and approval criteria shall not apply to Mineral Extraction conditional uses.

11.15.7107 Mineral Extraction Exemption from Standards

Except as provided in MCC 11.15.6760(B), Mineral Extraction conditional uses are exempted from the provisions of MCC .7110(C), .7110(E), .7115, .7120, .7122, and .7125.

October 18, 1994

Arnold Rochlin
P.O. Box 83645
Portland, OR 97283-0645
(503) 289-2657

Multnomah County Board of Commissioners

C 11-94 Aggregate: Comprehensive Framework Plan and Zoning Code Amendments.

Transportation Requirements

Page 4, Item 8, (d):

The last 6 words, "that the roads identified in the Plan" should be changed to **"that roads are appropriately identified in the Plan"**

Reason: Errors in identification of the roads that are of concern must be addressed as part of approval of the plan.

Page 5, first paragraph:

The last 3 words, "that those roads" should be changed to **"that the applicant has identified the appropriate roads, and they are"**

Reason: Same as above.

Remaining Issues

page 5, #1, **County regulation of mining reclamation.**

The issue is mis-stated. The question is not what authority the county has in "controlling" or "curtailing" mining after it has issued a conditional use permit. Responding to a question from the Planning Commission County Counsel advised in a memorandum of September 21st to Mr. Pemble that the county has authority to set more restrictive reclamation requirements than does DOGAMI. County regulations cannot cancel or weaken DOGAMI's standards. Last week, under questioning from the Board, staff did not give an answer to what is the county's authority. The question is: Can the county lawfully retain the reclamation standards that staff proposed to delete (11.15.7325(C), (8), (11) and (12) at pages 26-27 of the staff memorandum on C 11-94 presented last week)? The answer is yes. Instead of giving that direct answer, staff instead spoke of the cooperative relationship that might prevail between the county and DOGAMI, and how we might persuade them to adapt their program to our wishes. DOGAMI is required to comply with your lawfully enacted standards, but not with suggestions made concerning a specific application that's before them. If you want reclamation standards, you have to retain them in the code, or revise them to comply with any changes in your policy, but you should not delete them.

The proposed deletions, 11.15.7325(C)(8), (11) and (12), should be retained. They requires that reclamation blend in with surrounding areas, that it be done in phases, where practical, and that on application, a timetable for reclamation, relative to mining, be submitted. These are all reasonable standards.

page 6, #3-7, **Legal Issues**

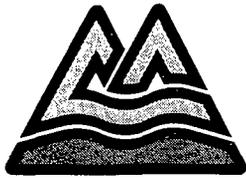
The staff does not confront the issues. Instead of replying to the charge that the proposals conflict with the OAR and with case law, the staff reports that the text was given to them by DLCD. There was never much doubt about the source, only about whether it's legal and whether it's the policy that this county wants.

I still claim, and staff does not deny, that all of the provisions referred to by staff in items 3 to 7 on page 6, are unlawful for the reasons given in my testimony last week. The Board asked County Counsel to comment on my comments; I haven't received his comments and have no idea what they are.

That DLCD staff has pressured the county to adopt particular proposals is no secret. That they are the authors of our staff's proposal does not commend it. The DLCD staff is very biased in favor of aggregate mining. During this terribly laborious process of periodic review and remand, DLCD has shown serious interest in only one Goal, Goal 5. And, they have put pressure on the county concerning only one of twelve listed Goal 5 resources, aggregate. Their concern about other resources has been limited mainly to the issue of conflict with aggregate.

Ask the staff to give direct answers to these questions: Is the county legally obliged to adopt the challenged DLCD staff proposals as recommended by county staff? If yes, under what specific legal authority?





MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES
DIVISION OF PLANNING
AND DEVELOPMENT
2115 S.E. MORRISON STREET
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BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

MEMORANDUM

TO: Board of County Commissioners
FROM: Planning Staff
Division of Planning and Development
DATE: October 25, 1994
SUBJECT: Proposed Mining Regulation Ordinance

BOARD OF
COUNTY COMMISSIONERS
1994 OCT 25 PM 1:10
MULTNOMAH COUNTY
OREGON

At the conclusion of the second reading of the mining ordinance on October 18, 1994, the Board requested additional information and suggested language changes for some unresolved issues. After consultation with County Counsel, planning staff has drafted recommended actions on those issues. Where changes to the wording of the ordinance dated 9/26/94 is given, those recommendations will be in the format of underlined new language and ~~crossed through words~~ to be deleted. (The 9/26/94 ordinance sections are transferred to this memo in plain type and do not reflect the type styles of amendments to the existing code as shown in the ordinance.)

ITEM 1. References to Fees

Page 30, Lines 15 to 26; and Page 31, Lines 1 to 5; MCC 11.15.9005 & .90010
Delete entire fee section.

DISCUSSION: The purpose of including these sections was to add the "PAM" subdistrict to the list of fees under the heading of "change of zone classification." This section is not needed now because a separate ordinance covering many different fees is expected to be reviewed by the Board. This other ordinance has restructured this section of the zoning code to eliminate the need to list the "PAM" subdistrict by name. In addition, the fee amounts in this mining ordinance may conflict with any fees that could be adopted as part of the fee ordinance.

ITEM 2. Definition of "Impact Area"

Page 9, Lines 25 to 26; and Page 10, Line 1; MCC 11.15.6765(F)

(F) *Impact Area* – The area where uses may occur that could adversely affect the resource site or be adversely affected by use of the resource site ~~surrounding the extraction area in which direct conflicts between mining and other land uses are found. The impact area is the area in which ESEE consequences of conflicting uses are analyzed, and conflicting uses are regulated.~~

DISCUSSION: See October 17, 1994 Memorandum from John L. DuBay, Office of County Counsel, to Board of County Commissioners, analysis number 5 on pages 3 and 4. The Memo was responding to legal issues raised by Arnold Rochlin.

ITEM 3. Definition of "Significant Site"

Page 3, Lines 19 to 23; Plan Policy 16-B, Strategies, E & F

~~E. The county will consider aggregate resources significant if the resource meets Oregon Department of Transportation specifications for concrete aggregate rock, and the site contains a minimum of one million cubic yards of mineable reserves.~~

F.E The county will judge the significance of ~~non-aggregate~~ mineral and aggregate resources on a case by case basis, under the standards and procedures in LCDC's Goal 5 interpretive rules. ~~Resources shall be judged by the commercial or industrial value of the resource, and the relative quality and relative abundance of the resource within at least the county.~~

(Plan Policies G. through S. would receive new letter designations due to the deletion of E.)

Page 11, Lines 6 to 19; MCC 11.15.6765(M)

(M) *Significant Site* – A site containing either significant aggregate resources or significant mineral resources. The county will judge the significance of mineral and aggregate resources on a case by case basis, under the standards and procedures in LCDC's Goal 5 interpretive rules.

~~(1) A significant aggregate resource is a site that contains aggregate or stone materials which meet Oregon Department of Transportation specifications for construction grade material and is located within an ownership or long term lease containing more than one million cubic yards of reserves. The burden shall be upon the applicant for designation to demonstrate to the Approval Authority that the samples tested for grading are representative of the entire area of the site.~~

~~(2) A significant mineral resource site is a site that contains metallic and non-metallic minerals other than aggregate and stone materials. The significance of a mineral resource is based upon the resource's use for commercial or industrial purposes, and the relative quality and abundance of the resource within the county. The burden shall be upon the applicant for designation to demonstrate to the Approval Authority that the samples tested for grading are representative of the entire area of the site.~~

DISCUSSION: See October 17, 1994 Memorandum from John L. DuBay to Board of County Commissioners, analysis number 2 on pages 1 and 2, responding to legal issues by Arnold Rochlin.

ITEM 4. Regulation of "Exempt Mining Activity"

Page 4, Lines 14 to 15; Plan Policy 16-B, Strategies, H

H. Mining and the associated processing of aggregate and mineral materials, in excess of the limited exceptions in Subsection I below, may only be allowed at sites included on the "protected sites" inventory. ...

Page 4, Lines 19 to 25; Plan Policy 16-B, Strategies, I

I. Exemptions

1. The following activities are exempt from the approval requirements and development standards of this policy:
 - (a) ~~+~~ Mining auxiliary to forest practices. ;
 - (b) Lawful mining operating under a DOGAMI "Grant of Total Exemption" on (the effective date of the Ordinance) on property owned or controlled by the operator. Abandonment, restoration, or alteration of this use shall be in compliance with the non-conforming use provisions of MCC .8805 and .8810 (1994).
2. ~~In the Exclusive Farm Use (EFU) zone, m~~ Mining less than 1,000 cubic yards of material in conjunction with or mining an area of less than one acre is exempt from the approval requirements and development standards of this policy. However, the mining activity shall require approval of a Hillside and Erosion Control permit and any other permits as may be required in any overlay subdistrict. ;
3. ~~In all other districts zones, m~~ Mining a quantity and area in excess of 2 above, but less than 5,000 cubic yards of material or disturbing less than one acre of land within a period of 12 consecutive months until mining affects five or more acres is exempt from the approval requirements and development standards of this policy which require review by and issuance of an operating permit from DOGAMI. However, mining at this level of activity shall:
 - (a) Be on a "protected site" as determined by the Goal 5 process;
 - (b) Be approved as a mining conditional use; and
 - (c) Obtain approval of a Hillside and Erosion Control Permit in conjunction with the mining conditional use approval. The Hillside and Erosion Control permit shall be required in place of all references in the plan and code to obtaining a DOGAMI operating permit in recognition that this level of mining activity is exempted by DOGAMI rules for such a permit.

Page 8, Lines 18 to 26; MCC 11.15.6760

11.15.6760 Exemptions

- (A) The following activities are exempt from the requirements of MCC .6750 through .6795 and .7305 through .7335 ~~this section~~. Operators or land owners have the burden of qualifying for any exemption.
- (1) Mining on forest lands auxiliary to forestry operations occurring in compliance with the Forest Practices Act as administered by the Oregon Department of Forestry.
 - (2) Lawful mining operating under a DOGAMI "Grant of Total Exemption" on (the effective date of the Ordinance) on property owned or controlled by the operator. Abandonment, restoration, or alteration of this use shall be in compliance with the non-conforming use provisions of MCC .8805 and .8810.
- (B) ~~(A) In exclusive farm use zones, m~~ Mining less than 1,000 cubic yards of material in conjunction with or mining an area of less than one acre is exempt from the requirements of MCC .6750 through .6795 and .7305 through .7335, but shall require the approval of a Hillside and Erosion Control Permit and any other permits as may be required in any overlay subdistrict. ;
- (C) ~~(B) In all other zones, m~~ Mining excess of (B), but mining less than 5,000 cubic yards of material or disturbing less than one acre of land within a period of 12 consecutive months until mining affects five or more acres is exempt from the requirement in MCC .7325 and .7331 to obtain a DOGAMI operating permit. A Hillside and Erosion Control Permit shall be required in conjunction with the conditional use review in place of the DOGAMI permit. ;
- ~~(C) Mining on forest lands auxiliary to forestry operations occurring in compliance with the Forest Practices Act as administered by the Oregon Department of Forestry;~~

DISCUSSION: The Board raised three concerns regarding this issue. First, was the preference of the Board for the County to regulate in some manner the scale of mining that is exempt from a DOGAMI reclamation permit. Second, the question was raised about different levels of mining that may not be appropriate in certain residential zones. Third, how would a change in these regulations affect existing exempt operations? The first and second concerns could be met by an approach that uses two thresholds of volume of material mined and two corresponding levels of review.

Potential problems that could occur from mining less than 1,000 cubic yards of material (approximately 100 gravel trucks in total) would be short term and involve for the most part only erosion and stability questions. An applicant for this size of operation would be required to obtain a Hillside and Erosion Control Permit (HDP) and any other required sub-district permit such as a Significant Environmental Permit (SEC). The HDP will examine any erosion and stability control measures proposed by an applicant, and other permits such as the SEC would address conflicts with known Goal 5 resources. Notice of the Planning Directors Decision is sent to all surrounding property owners, who then have the opportunity to appeal that decision to public hearings.

Problems that could be expected with mining more than 1,000 cubic yards a year up to a maximum of 5,000 cubic yards a year, as verified from public testimony heard this past year, can involve all the conflicts of a larger operation (ie. noise to nearby homes and inadequate roads). The proposed changes would require that mining at this level of operation occur only at sites for which the Goal 5 process has been completed and conditional use approval under the mining CU section has been approved. The only difference from the mining CU standards being that a County Hillside and Erosion Control Permit would be reviewed in place of a DOGAMI reclamation permit.

County Counsel and planning staff agree that regulation of mining activities resulting from conflicts such as nearby homes and inadequate roads, even at this level of mining, can only be done using the Goal 5 process and not the general conditional use criteria of approval or the outright prohibition in certain zones.

Existing operations can continue under the provisions for a non-conforming use. By Statute, (ORS 215.130), the county has no legal authority to retroactively apply new zoning code provisions to this type of existing land use.

ITEM 5. Transportation Requirements

Page 23, Lines 2 to 16; MCC 11.15.7325(C)(1)(d)

(d) The applicant shall submit all traffic information and traffic management plans required in any site-specific Comprehensive Plan Program. The County Engineer shall review the submitted plans and shall certify, based on findings relating to the *Multnomah County Rules for Street Standards*, that the roads appropriately identified in the Plan:

(i) Are adequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity, or

(ii) If the roads are inadequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity that:

• The applicant has committed to finance installation of the necessary improvements under the provisions of 02.200(a) or (b) of the *Multnomah County Rules for Street Standards*, and

• A program has been developed for the numbers and weight of trucks from the site that can safely be accommodated at specific levels of road improvement. Based upon those findings, the Hearing Authority may attach related conditions and restrictions to the conditional use approval.

(e) If there are no traffic management requirements in the site-specific Comprehensive Plan Program requirements, the applicant shall submit a traffic management plan which identifies the most commonly used routes of travel from the site, and contains the following components: Traffic Study Section, Operational Study Section, Pavement and Other Structures Study Section, System Condition Conclusions and Improvement Alternatives Analysis Section, and Economy/Cost Responsibility Study Section. The County Engineer shall review the Traffic Management Plan and shall certify, based on

findings relating to the *Multnomah County Rules for Street Standards*, that the applicant has identified the appropriate roads, and those roads:

- (i) Are adequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity, or
- (ii) If the roads ~~A~~ are inadequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity that:
 - The applicant has submitted a traffic management plan that is sufficient for the County Engineer to make relevant findings regarding necessary road improvements;
 - ~~but~~ The applicant has committed to finance installation of the necessary improvements under the provisions of 02.200(a) or (b) of the *Multnomah County Rules for Street Standards* ; and
 - A program has been developed for the numbers and weight of trucks from the site that can safely be accommodated at specific levels of road improvement. Based upon those findings, the Hearing Authority may attach related conditions and restrictions to the conditional use approval.
- ~~(iii) Satisfy any requirements that may be contained in the site-specific Comprehensive Plan Program.~~

DISCUSSION: The above changes are suggested to address the Boards concerns about: (1) ensuring that applicants who have no traffic related issues regarding the proposed site are not required to submit a traffic management plan, (2) retaining some "trigger" that could require such a study if traffic problems were missed at the time of the ESEE analysis, and (3) clarifying the timing of heavy truck use of the roads in relation to certain levels of road improvement.

ITEM 6. County Regulation of Reclamation

Page 6, Lines 6 to 8; Plan Policy 16-B, Strategies, Q

Q. Unless specifically determined on a case by case basis, it shall be the policy of the county, that DOGAMI delay its final decision on approval of a reclamation plan and issuance of an operating permit until the county decides all comprehensive plan amendments and/or conditional use approvals. It is also the policy of Multnomah County to participate in and cooperate with DOGAMI in their review of a permit application to that agency.

DISCUSSION: Language very similar to the addition to Plan Policy Q is in the two recently adopted aggregate "Reconciliation Reports." The LCDC Remand Order requires the county to amend "comprehensive plan provisions to ensure planning and permit coordination with DOGAMI."

Page 22, Lines 14 to 15; MCC 11.15.7325(B)

The approval authority shall find that: ...

(B) There is a proposed reclamation plan which will allow the property to be utilized as provided in as envisioned by the Comprehensive Plan and the underlying district.

DISCUSSION: Minor change suggested by County Counsel.

Page 26, Lines 16 to 19; MCC 11.15.7325(C)[~~(8)~~] This subsection appears in the proposed Ordinance in brackets and crossed through.

~~{(8) Reclaimed Topography.~~

~~All final reclaimed surfaces shall be stabilized by sloping, benching, or other ground control methods. Reclaimed surfaces shall blend into the natural landforms of the immediately surrounding terrain. These reclamation standards shall not apply where the Approval Authority finds that the standards conflict with the reclamation plan provided in the Comprehensive Plan or DOGAMI finds that the standards conflict with DOGAMI reclamation standards. }~~

DISCUSSION: There may be some situations where a reclaimed mine may be appropriately reclaimed as a created wetland or golf course that is not part of the "natural landforms of the immediately surrounding terrain. County Counsel has advised that the county standards may not conflict with DOGAMI reclamation standards.

Page 26, Line 26; and Page 27, Lines 1 to 3; MCC 11.15.7325(C)[~~(11)~~] This subsection appears in the proposed Ordinance in brackets and crossed through.

~~{(11) Phasing program.~~

~~All phases of an extraction operation shall be reclaimed before beginning the next, except where the Approval Authority or DOGAMI finds that the different phases cannot be operated and reclaimed separately.}~~

DISCUSSION: With this "relief valve" there should not be a conflict with DOGAMI standards.

Page 27, Lines 4 to 8; MCC 11.15.7325(C)[~~(12)~~] This subsection appears in the proposed Ordinance in brackets and crossed through.

~~[(12) Reclamation Schedule.~~

~~The reclamation plan shall include a timetable for continually reclaiming the land. The timetable shall provide for beginning reclamation within twelve (12) months after extraction activity ceases on any segment of the mined area and for completing reclamation within three (3) years after all mining ceases, except where the Approval Authority or DOGAMI finds that these time standards cannot be met or which conflict with a DOGAMI standard.]~~

ITEM 7. Screening of Mine Sites and Setbacks for Mining Activity

Page 23, Lines 17 to 25; MCC 11.15.7325(C)(2)(a)&(b)

(2) Screening, landscaping and visual appearance.

- (a) All existing vegetation and topographic features which would provide screening and which are within ~~50~~ 100 feet of the boundary of the proposed area of extraction shall be preserved.
- (b) If the site-specific Goal 5 analysis determines that existing vegetation and topography is insufficient to obscure the site from identified key viewing areas and corridors ~~existing noise and dust sensitive conflicting uses~~, then measures as identified in the Goal 5 analysis to reduce or eliminate conflicts shall be implemented. ~~site shall be screened with~~ Methods of screening may include landscape berms, hedges, trees, walls, fences or similar features. Any ~~R~~ required screening shall be in place prior to commencement of the extraction activities.

DISCUSSION: The terms "noise and dust sensitive" land uses was used only as a short hand way to avoid listing "residences, churches, hospitals, schools, public libraries, and campgrounds". There was no intention of trying to make any correlation between noise and dust with visibility concerns. After further review of this provision, staff recommends the above changes to match the terms and methods of determining scenic views in the West Hills Reconciliation Report. The change from 50 to 100 feet is discussed below.

Page 26, Lines 5 to 9 and Lines 12 to 15; MCC 11.15.7325(C)(7)(a)&(c)

(7) Setbacks.

- (a) For mineral and aggregate processing activities:
 - (i) 200 feet to a property line, or
 - (ii) 400 feet to a *noise sensitive* or *dust sensitive* land use existing or approved (valid action or administrative decision) on the date of application;

* * *
- (c) For mineral extraction and all other activities:
 - (i) ~~50~~ 100 feet to a property line, or
 - (ii) ~~250~~ 400 feet to a *noise* or *dust sensitive* land use existing or approved (valid action or administrative decision) on the date of application.

DISCUSSION: The suggested increase in setback from the extraction area to a property line or a noise sensitive land use (ie. house) would be in line with other information found. This setback is not given in the DLCD model ordinance and staff could not locate any studies addressing this standard. Other examples of setbacks from extraction activities are as follows:

Washington County: 100 feet to property line; 500 feet to noise sensitive land use
Deschutes County: 50 feet to property line; 250 feet to noise sensitive land use
Recommendation from Paul Hribernick, attorney that has represented the aggregate industry:
50 feet to property line; 500 feet to noise sensitive land use

ITEM 8. Fish and Wildlife Protection

Page 25, Lines 19 to 26; and Page 26, Lines 1 to 4; MCC 11.15.7325(C)(6)

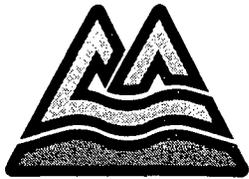
(6) Fish and wildlife protection.

- (a) Fish and wildlife habitat, water bodies, streams, and wetlands inventoried in the Comprehensive Plan shall be protected according to the program contained in the Comprehensive Plan.
- ~~(b) The extent of the operation's impact on and the importance of the fish and wildlife values present shall be determined in consultation with the State Department of Fish and Wildlife.~~
- ~~(c) Streamside riparian vegetation shall be retained for all streams not a part of direct extraction activities.~~

DISCUSSION: The Remand Order reads on this issue: "Amend, as necessary, in accordance with Goal 5 and the Goal 5 rule the following provisions: ... MCC 11.15.7325(C) requiring protection of fish and wildlife habitat without supporting justification in a site-specific ESEE analysis. ..."

DLCD staff has suggested that the wording in paragraph (C)(6)(a), meets the remand order requirement, but that paragraphs (b) and (c) should be deleted. The Planning Commission recommended to the Board to retain (b) and (c).

After consulting with County Counsel, planning staff suggests the addition of the underlined words in (a) and the deletion of (b) and (c). The wording in (b) and (c) would imply the ability to protect habitat that is not be in the ESEE analysis for a site, contrary to LCDC direction.



MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES
DIVISION OF PLANNING
AND DEVELOPMENT
2115 S.E. MORRISON STREET
PORTLAND, OREGON 97214
(503) 248-3043

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

MEMORANDUM

TO: Board of County Commissioners

FROM: Planning Staff
Division of Planning and Development

DATE: October 27, 1994

SUBJECT: Minor Changes to 2 Items in the Oct. 24 Mining Ordinance Memo

The purpose of this Memo is to recommend slightly different wording in the ordinance language given in Item 4, Exempt Mining Activity, and Item 6, Regulation of Reclamation of the October 24, 1994 Memo from planning staff to the Board. The format of the ordinance sections in this memo will be the same as that in the October 24 Memo, except changes in this latest draft will be shown in larger bold type, either **underlined if new** or **~~crossed through if deleted~~**.

Changes to Item 4 involve the concern that the Statewide Planning Goal 5 process should dictate the amount of restrictions that may be appropriate at any site. Therefore, any permits required of an applicant at a "protected" site, which has been through the Goal 5 process, be warranted by the conclusions of that process. Language conveying that concept has been added. In addition, the zoning code language has been changed to more closely reflect the plan policy.

Changes to Item 6 are made to avoid possible problems with the word "conflict" in relation to how the County's reclamation standards may conflict with DOGAMI's standards.

ITEM 4. Regulation of "Exempt Mining Activity"

Page 4, Lines 14 to 15; Plan Policy 16-B, Strategies, H

H. Mining and the associated processing of aggregate and mineral materials, in excess of the limited exceptions in Subsection I below, may only be allowed at sites included on the "protected sites" inventory. ...

Page 4, Lines 19 to 25; Plan Policy 16-B, Strategies, I

I. Exemptions

1. The following activities are exempt from the approval requirements and development standards of this policy:
 - (a) ~~4-~~ Mining auxiliary to forest practices. ;
 - (b) Lawful mining operating under a DOGAMI "Grant of Total Exemption" on (the effective date of the Ordinance) on property owned or controlled by the operator. Abandonment, restoration, or alteration of this use shall be in compliance with the non-conforming use provisions of MCC .8805 and .8810 (1994).
2. ~~In the Exclusive Farm Use (EFU) zone, m~~ Mining less than 1,000 cubic yards of material in conjunction with ~~or~~ mining an area of less than one acre is exempt from the approval requirements and development standards of this policy. However, the mining activity shall require approval of a Hillside and Erosion Control permit and any other permits as may be required in any overlay subdistrict. ;
3. ~~In all other districts zones, m~~ Mining a quantity and area in excess of 2 above, but less than 5,000 cubic yards of material or disturbing less than one acre of land within a period of 12 consecutive months until mining affects five or more acres is exempt from the approval requirements and development standards of this policy which require review by and issuance of an operating permit from DOGAMI. However, mining at this level of activity shall:
 - (a) Be on a "protected site" as determined by, **subject to restrictions warranted by,** the Goal 5 process;
 - (b) Be approved as a mining conditional use; and
 - (c) Obtain approval of a Hillside and Erosion Control Permit in conjunction with the mining conditional use approval. The Hillside and Erosion Control permit shall be required in place of all references in the plan and code to obtaining a DOGAMI operating permit in recognition that this level of mining activity is exempted by DOGAMI rules for such a permit.

Page 8, Lines 18 to 26; MCC 11.15.6760

11.15.6760 Exemptions

(A) The following activities are exempt from the requirements of MCC .6750 through .6795 and .7305 through .7335 ~~this section~~. Operators or land owners have the burden of qualifying for any exemption.

- (1) Mining on forest lands auxiliary to forestry operations occurring in compliance with the Forest Practices Act as administered by the Oregon Department of Forestry.
- (2) Lawful mining operating under a DOGAMI "Grant of Total Exemption" on (the effective date of the Ordinance) on property owned or controlled by the operator. Abandonment, restoration, or alteration of this use shall be in compliance with the non-conforming use provisions of MCC .8805 and .8810.

(B) ~~(A) In exclusive farm use zones, m~~ Mining less than 1,000 cubic yards of material in conjunction with or mining an area of less than one acre is exempt from the requirements of MCC .6750 through .6795 and .7305 through .7335, but shall require the approval of a Hillside and Erosion Control Permit and any other permits as may be required in any overlay subdistrict. ;

(C) ~~(B) In all other zones, m~~ Mining excess of (B), but mining less than 5,000 cubic yards of material or disturbing less than one acre of land within a period of 12 consecutive months until mining affects five or more acres is exempt from the requirement in MCC .7325 and .7331 to obtain a DOGAMI operating permit. However, mining at this level of activity shall:

- (1) Be on a "protected site" as determined by, subject to restrictions warranted by, the Goal 5 process;
- (2) Be approved as a mining conditional use pursuant to the provisions and requirements of MCC .7305 through .7335; and
- (3) Obtain approval of a Hillside and Erosion Control Permit in conjunction with the mining conditional use approval. The Hillside and Erosion Control permit shall be required in place of all references in the plan and MCC 11.15 to obtaining a DOGAMI operating permit in recognition that this level of mining activity is exempted by DOGAMI rules for such a permit. ;

~~A Hillside and Erosion Control Permit shall be required in conjunction with the conditional use review in place of the DOGAMI permit.~~

~~(C) Mining on forest lands auxiliary to forestry operations occurring in compliance with the Forest Practices Act as administered by the Oregon Department of Forestry;~~

DISCUSSION: The Board raised three concerns regarding this issue. First, was the preference of the Board for the County to regulate in some manner the scale of mining that is exempt from a DOGAMI reclamation permit. Second, the question was raised about different levels of mining that may not be appropriate in certain residential zones. Third, how would a change in these regulations affect existing exempt operations? The first and second concerns could be met by an approach that uses two thresholds of volume of material mined and two corresponding levels of review.

Potential problems that could occur from mining less than 1,000 cubic yards of material (approximately 100 gravel trucks in total) would be short term and involve for the most part only erosion and stability questions. An applicant for this size of operation would be required to obtain a Hillside and Erosion Control Permit (HDP) and any other required sub-district permit such as a Significant Environmental Permit (SEC). The HDP will examine any erosion and stability control measures proposed by an applicant, and other permits such as the SEC would address conflicts with known Goal 5 resources. Notice of the Planning Directors Decision is sent to all surrounding property owners, who then have the opportunity to appeal that decision to public hearings.

Problems that could be expected with mining more than 1,000 cubic yards a year up to a maximum of 5,000 cubic yards a year, as verified from public testimony heard this past year, can involve all the conflicts of a larger operation (ie. noise to nearby homes and inadequate roads). The proposed changes would require that mining at this level of operation occur only at sites for which the Goal 5 process has been completed and conditional use approval under the mining CU section has been approved. The only difference from the mining CU standards being that a County Hillside and Erosion Control Permit would be reviewed in place of a DOGAMI reclamation permit.

County Counsel and planning staff agree that regulation of mining activities resulting from conflicts such as nearby homes and inadequate roads, even at this level of mining, can only be done using the Goal 5 process and not the general conditional use criteria of approval or the outright prohibition in certain zones.

Existing operations can continue under the provisions for a non-conforming use. By Statute, (ORS 215.130), the county has no legal authority to retroactively apply new zoning code provisions to this type of existing land use.

ITEM 6. County Regulation of Reclamation

Page 6, Lines 6 to 8; Plan Policy 16-B, Strategies, Q

Q. Unless specifically determined on a case by case basis, it shall be the policy of the county, that DOGAMI delay its final decision on approval of a reclamation plan and issuance of an operating permit until the county decides all comprehensive plan amendments and/or conditional use approvals. It is also the policy of Multnomah County to participate in and cooperate with DOGAMI in their review of a permit application to that agency.

DISCUSSION: Language very similar to the addition to Plan Policy Q is in the two recently adopted aggregate "Reconciliation Reports." The LCDC Remand Order requires the county to amend "comprehensive plan provisions to ensure planning and permit coordination with DOGAMI."

Page 22, Lines 14 to 15; MCC 11.15.7325(B)

The approval authority shall find that: ...

(B) There is a proposed reclamation plan which will allow the property to be utilized as provided in ~~as envisioned by~~ the Comprehensive Plan and the underlying district.

DISCUSSION: Minor change suggested by County Counsel.

Page 26, Lines 16 to 19; MCC 11.15.7325(C)~~(8)~~ This subsection appears in the proposed Ordinance in brackets and crossed through.

~~(8) Reclaimed Topography.~~

~~All final reclaimed surfaces shall be stabilized by sloping, benching, or other ground control methods. Reclaimed surfaces shall blend into the natural landforms of the immediately surrounding terrain. These reclamation standards shall not apply where the Approval Authority finds that the standards conflict with the reclamation plan provided in the Comprehensive Plan or where DOGAMI finds that the standards are less restrictive than conflict with DOGAMI reclamation standards.~~

DISCUSSION: There may be some situations where a reclaimed mine may be appropriately reclaimed as a created wetland or golf course that is not part of the "natural landforms of the immediately surrounding terrain."

Page 26, Line 26; and Page 27, Lines 1 to 3; MCC 11.15.7325(C)~~(11)~~ This subsection appears in the proposed Ordinance in brackets and crossed through.

~~(11) Phasing program.~~

~~All phases of an extraction operation shall be reclaimed before beginning the next, except where the Approval Authority or DOGAMI finds that the different phases cannot be operated and reclaimed separately.~~

DISCUSSION: This "relief valve" is needed for situations where technical operating constraints may be known by DOGAMI reclamation experts and not the county Approval Authority.

Page 27, Lines 4 to 8; MCC 11.15.7325(C)[(12)] This subsection appears in the proposed Ordinance in brackets and crossed through.

{(12) Reclamation Schedule.

The reclamation plan shall include a timetable for continually reclaiming the land. The timetable shall provide for beginning reclamation within twelve (12) months after extraction activity ceases on any segment of the mined area and for completing reclamation within three (3) years after all mining ceases, except where the Approval Authority or DOGAMI finds that these time standards cannot be met ~~or which conflict with a DOGAMI standard.~~

BCC ✓

LANE
POWELL
SPEARS
LUBERSKY

Frank M. Parisi
(503) 778-2116

October 27, 1994

Via Facsimile/Hand Delivery
248-3389

Law Offices
520 S.W.
Yamhill Street
Suite 800
Portland, OR
97204-1383

Scott Pemble
Planning Director
Multnomah County
2115 SE Morrison
Portland, OR 97214

(503) 226-6151

Via Hand Delivery

Telex:
269029-SPRS-UR
Facsimile:
(503) 224-0388

Board of County Commissioners
Multnomah County
1201 SW 5th Avenue
Portland, OR 97204

A Partnership
Including
Professional
Corporations

Re: Angell Bros. Rock
Our File No. 701062-1

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
1994 OCT 27 PM 12:07

Dear Scott and Members of the Commission:

This letter contains the comments of Angell Bros. and the Oregon Concrete and Aggregate Producers Association on the proposed amendments to the Comprehensive Plan and Zoning Ordinance regarding mineral and aggregate resources, natural resources, the SEC District, wildlife resources, stream resources, and scenic views.

You may recall that I submitted a letter on September 12, 1994. You did not agree with my comments and chose not to re-examine your basic approach. I, therefore, renew all the comments made in the September 12, 1994 letter, and add the following comments:

1. Since the County has already decided not to permit any expansion on the Angell Bros. site and to permit expansion of the Howard Canyon site upon terms and conditions that make mining virtually impossible, it appears to OCAPA that amending the Comprehensive Plan and Zoning Ordinance have no practical effect. The policy decision the County has made is that only mining which has no perceived negative

Anchorage, AK
Los Angeles, CA
Mount Vernon, WA
Olympia, WA
Portland, OR
Seattle, WA
London, England
Tokyo, Japan

Scott Pemble
Board of County Commissioners
October 27, 1994
Page 2

impacts will be permitted. This approach treats mining as a nuisance that requires regulation, rather than an activity that is essential to a Goal 5 resource and therefore protected by Goal 5. Why pretend that this approach complies with Goal 5?

2. Turning to specific new language:

A. Item 5. The amendment on page 3 of the October 14, 1994 memo regarding Plan Policy 16B, Strategies, adds "the Department of Environmental Quality" to the agencies that supposedly issue an operating permit. Please understand that DEQ does not issue these permits. DOGAMI does. All sister agencies with jurisdiction have input into DOGAMI's decision. There is no point in specifying DEQ.

B. Item 8 regarding transportation requirements ought to be made a part of the ESEE Analysis, not a part of an operating permit (which the County has confusingly chosen to call a "conditional use permit"). If this is not done, the County will be in the position of having operating permit standards that are not clear and objective and that may be inconsistent with the ESEE Analysis. This would violate Goal 5.

C. In the "Remaining Issues" section, a statement is made that

"It is difficult and probably unnecessary to attempt to draft language in the Zoning Code that would control how every site should be mined, any particular problems anticipated at any site can be addressed in the Comprehensive Plan and then examined in detail in review of other conditional use applications."

This statement is inconsistent with the County's position throughout periodic review. The County has always stated that Angell Bros. cannot mine until the County knows precisely how each and every aspect of mining will occur, especially how mining will impact wildlife resources, scenic resources and stream resources. (At the same time, the effect on mining of "protecting" these resources is ignored.) Now the County says it doesn't know about the specific details of each mining site, and doesn't have to explain how each site will be mined. The County cannot have it both ways. If the County chooses to erect roadblocks to Goal 5 resources, the County must be prepared to show in detail how the roadblocks will be dismantled. Under Goal 5, every essential decision about whether mining will be allowed, and if so, what conditions will be imposed upon

Scott Pemble
Board of County Commissioners
October 27, 1994
Page 3

it must be made in the Comprehensive Plan. These conditions cannot be made later in a conditional use permit hearing unless the clear and objective standards are spelled out in advance.

D. The section labeled "Fish and Wildlife Protection" continues to be a major problem. As I stated in previous comments, the County has decided to "protect" fish and wildlife habitat without a scientific basis for evaluating even the present condition of fish and wildlife habitat in the West Hills, much less any "protective" measures. This point has been argued again and again, and it is probably pointless to continue arguing it at this point, except to remind the County that its lack of data on this issue means that most of the work going into the present amendments will not actually result in any protection of the favored resources.

E. There appears to be a new difference in the way the County treats the "special" Goal 5 resources, namely scenic, wildlife habitat, and stream resources, versus the "unpopular" Goal 5 resource of mineral and aggregate. This occurs throughout the Zoning Code and Comprehensive Plan Amendments. Where the "special" resources are concerned, the County refers to "resource sites designated 2A, 3A or 3C." Where the "unpopular" Goal 5 resources are concerned, the County refers to "resources contained in an inventory." The apparent justification for this difference in language is that the County wishes to preserve an argument that by prohibiting mining it is somehow protecting mineral and aggregate resources for later mining. This argument has been rejected by LCDC and LUBA. The odd difference in language ought to be dropped, and all Goal 5 resources treated in the same manner.

F. With respect to the new provisions regarding significant scenic views, the County's language does not distinguish between the impact on scenic views caused by existing conditional uses and pre-existing non-conforming uses on the one hand, and new uses on the other hand. In the case of Angell Bros., the difference is important because the expansion area is an area of no greater impact to the viewshed than the areas already being mined as a pre-existing non-conforming use and an existing conditional use.

Scott Pemble
Board of County Commissioners
October 27, 1994
Page 4

Thank you for the opportunity to comment.

Very truly yours,

A handwritten signature in cursive script that reads "Frank". The signature is written in black ink and is positioned above the printed name.

Frank M. Parisi

cc: Skip Anderson
Richard L. Angstrom
J:\CG1\FMP\10192FMP.LTR

MEETING DATE: ~~OCT 20 1994~~ OCT 27 1994

AGENDA NO.: ~~R-3~~ R-4

(Above space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: ENVIRONMENTAL HEALTH FEES ORDINANCE

BOARD BRIEFING Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: OCTOBER 20, 1994

Amount of Time Needed: 10-15 MINUTES

DEPARTMENT: HEALTH DIVISION: REGULATORY HEALTH

CONTACT: GARY OXMAN TELEPHONE #: 248-3674

BLDG/ROOM #: 160/8TH FLOOR

PERSON(S) MAKING PRESENTATION: GARY OXMAN

ACTION REQUESTED:

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

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

First reading of an ordinance to increase license fees for all restaurant categories, tourist accommodations, swimming pools and gas and plan reviews of pools, spas, and food service facilities.

10/27/94 copies to GARY OXMAN for ORDINANCE
Distribution list on 10/31/94

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

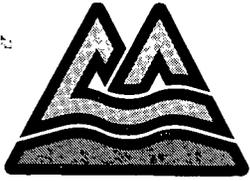
Or

DEPARTMENT MANAGER: Billi Odegaard

(ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES)

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

BOARD OF
COUNTY COMMISSIONERS
MILNEBACH COUNTY
OREGON
OCT 11 PM 5:07



MULTNOMAH COUNTY OREGON



HEALTH DEPARTMENT
426 S.W. STARK STREET, 8TH FLOOR
PORTLAND, OREGON 97204-2394
(503) 248-3674
FAX (503) 248-3676
TDD (503) 248-3816

BOARD OF COUNTY COMMISSIONERS
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GARY HANSEN • DISTRICT 2 COMMISSIONER
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SHARRON KELLEY • DISTRICT 4 COMMISSIONER

MEMORANDUM

TO: Board of County Commissioners

VIA: Bill *Odgaard* Odgaard, Director, Health Department

FROM: *GO* Gary Oxman, M.D., M.P.H., Health Officer

REQUESTED PLACEMENT DATE: October 20, 1994

DATE: October 10, 1994

SUBJECT: Increasing Environmental Health Fees

- I. Recommendation/Action Requested: The Board is requested to approve the ordinance increasing Environmental Health license attached fees.
- II. Background/Analysis: The Health Department periodically reviews the fees it charges for licenses issued and services provided by the Environmental Health Program. The last such review was in 1992, and resulted in updating of fees charged in the 1993 and 1994 calendar years. There have been no fee increases in the past two years.

It has been the Health Department's policy that fees charged to regulated facilities generally should cover the costs of mandatory licensing and related services. Fee increases are necessary at this time because the costs of Environmental Health Program regulatory and licensing activities have continued to rise due to both routine inflationary pressures and increasing demand.

The proposed fee increases are based on a careful analysis of actual costs to carry out mandated licensing and regulation. Over the past two years, three factors have been major contributors to increased program costs:

- 1) Increased salary and benefits costs for existing staff. These increases are driven primarily by collective bargaining and exempt employee agreements;
- 2) Addition of 1.0 FTE sanitarian position to address a long-term mismatch between program staffing and growing demand. The Board approved this position in the current budget with the understanding that 75% of the cost would be covered by fee revenues.
- 3) Increasing allocation of centralized county costs (e.g., building management) to the program.

III. Financial Impact: The ordinance will increase fee revenues approximately \$50,000-60,000. This is equivalent to a 6-7% increase in revenue relative to that collected during the 1993-4 fiscal year. This increase is consistent with the Health Department's revenue projections for the current fiscal year. These monies are deposited to the County General Fund.

Based on past input from the regulated industries, fee increases for small licensees have been kept to the minimum consistent with actual costs.

IV. Legal Issues: Oregon laws and statutes mandate the licensing and regulation of restaurants and other food service facilities, spas and swimming pools, and tourist accommodations. These laws and rules also authorize collection of license fees to defray the costs associated with these activities.

New Oregon Administrative Rules require a number of changes in the county's approach to license fees. They have: 1) limited the amount of personnel and overhead costs that can be allocated to food service licenses; 2) forced changes in the size classification of restaurants; and 3) specified a new fee system for partial year licenses. The proposed fee derivation methods and fee increases are within the limits of those Rules.

- V. Controversial Issues: Fee increases are always controversial. The proposed increases are consistent with the county's actual costs. The overall increase is equivalent to about three percent (3%) per year over the past two years.
- VI. Link to Current County Policies: As discussed above, it has been the long-standing policy of the Health Department for regulated facilities to bear the costs of regulation.
- VII. Citizen Participation: These proposed changes have been shared with the Multnomah County Food Service Advisory Committee, and the Oregon Restaurant and Hospitality Association. Both of these groups have been asked to make comment directly to the Board.
- VIII. Other Government Participation:
See Section IV above. No direct participation by other governmental agencies is required in this matter.

ORDINANCE FACT SHEET

Ordinance Title: 5.10.320 - 5.0.345 Food Service, Swimming Pool and Spas and Tourist Accommodation License Fees. 8.30.250 Food handler certificate fees.

Give a brief statement of the purpose of the ordinance (include the rationale for adoption of ordinance, description of persons benefited, other alternative explored):

Increases license fees for all restaurant categories, tourist accommodations, swimming pools and spas, and plan reviews of food service facilities, pools and spas.

What other local jurisdictions in the metropolitan area have enacted similar legislation?

Washington and Clackamas Counties.

What has been the experience in other areas with this type of legislation?

They have been allowed to set up fees to cover the cost of providing the inspections and plan reviews.

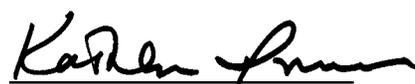
What is the fiscal impact, if any?

The proposed fees are an increase of approximately 7% over the last years fees and will cover the entire cost of providing these services.

(If space is inadequate, please use other side)

SIGNATURES

Person Filling Out Form:  Gary L. Oxman, M.D., M.P.H.

Planning & Budget Division (if fiscal impact): 

Department Manager/Elected Official: 

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ORDINANCE NO. ____

An ordinance to provide fee schedule changes for the Environmental Health Section of the Department of Health.

(Language in brackets [] is to be deleted; underlined language is new)

Multnomah County ordains as follows:

SECTION 1. AMENDMENT.

MCC 5.10.320 is amended to read as follows:

5.10.320 Food Service License Fee. For the services of the Department of Health in connection with issuance of food service licenses, the department shall collect a fee from every applicant, at the time of application.

The following fee structure shall apply for full service restaurants, limited service restaurants, or commissary licenses issued or applied for between January 1, and [March 31] September 30:

[Seating Capacity 0-15	\$215
	Seating Capacity 16-50	\$280
	Seating Capacity 51-100	\$333
	Seating Capacity Over 100	\$398
	Limited Service Restaurants	\$215
	Commissaries servicing 1-5	
	mobile units and/or 1-50	
	vending machines	\$215
	Commissaries servicing 6 or	

more mobile units and/or
 51 or more vending
 machines \$323]

Seating Capacity 0-15 \$230

Seating Capacity 16-50 \$300

Seating Capacity 51-150 \$360

Seating Capacity Over 150 \$430

Limited Service Restaurants \$230

Commissaries servicing 1-5
 mobile units and/or 1-50
 vending machines \$230

Commissaries servicing 6 or
 more mobile units and/or
 51 or more vending
 machines \$350

Where there are more than two food service facilities located at the same address and licensed [by] to the same licensee, the licensee fee shall be the amount listed above for the first two largest facilities and one-half the amount for each additional facility.

[The following fee structure shall apply for full-service restaurants, limited service restaurants, or commissary licenses issued or applied for between April 1 and June 30:

Seating Capacity 0-15	\$161
Seating Capacity 16-50	\$210
Seating Capacity 51-150	\$250
Seating Capacity Over 150	\$299
Limited Service Restaurants	\$161
Commissaries servicing 1-5	

mobile unites and/or 1-50	
vending machines	\$161
Commissaries servicing 6 or	
more mobile units and/or	
51 or more vending	
machines	\$242

Where there are more than two food service facilities located at the same address and licensed by the same licensee, the licensee fee shall be the amount listed above for the first two largest facilities and one-half the amount for each additional facility.]

The following fee structure shall apply for full-service restaurants, limited service restaurants, or commissary licenses issued or applied for between [July] October 1 and December 31:

[Seating Capacity 0-15	\$108
	Seating Capacity 16-50	\$140
	Seating Capacity 51-150	\$167
	Seating Capacity Over 150	\$199
	Limited Service Restaurants	\$108
	Commissaries servicing 1-5	
	mobile unites and/or 1-50	
	vending machines	\$108
	Commissaries servicing 6 or	

more mobile units and/or		
51 or more vending		
machines	\$161]
<u>Seating Capacity 0-15</u>	<u>\$115</u>	
<u>Seating Capacity 16-50</u>	<u>\$150</u>	
<u>Seating Capacity 51-[100] 150</u>	<u>\$180</u>	
<u>Seating Capacity Over [100] 150</u>	<u>\$215</u>	
<u>Limited Service Restaurants</u>	<u>\$115</u>	
<u>Commissaries servicing 1-5</u>		
<u>mobile unites and/or 1-50</u>		
<u>vending machines</u>	<u>\$115</u>	
<u>Commissaries servicing 6 or</u>		
<u>more mobile units and/or</u>		
<u>51 or more vending</u>		
<u>machines</u>	<u>\$175</u>	

Where there are more than two food service facilities located at the same address and licensed to the same licensee, the licensee fee shall be the amount listed above for the first two largest facilities and one-half the amount for each additional facility.

For [licenses issued or applied for, for] the following special food service facilities, the following fees shall be charged for licenses issued or applied for:

Temporary Restaurants:		
1 day	[\$ 59]	<u>\$ 65</u>
2-4 days	[\$ 97]	<u>\$105</u>
5 or more days	[\$108]	<u>\$115</u>
Seasonal Full Service, Commissaries or Limited Service Restaurants Operating Six (6) months or less		
	[\$108]	<u>\$115</u>
Smoke Shops: Selling only pre-wrapped food without the use of reusable utensils		
	[\$108]	<u>\$120</u>
Warehouses	[\$ 129]	<u>\$140</u>
Mobile Units	[\$ 115]	<u>\$125</u>
Vending Machines:		
1 - 10 units	[\$ 118]	<u>\$ 130</u>
11 - 20	[\$ 237]	<u>\$ 255</u>
21 - 30	[\$ 354]	<u>\$ 385</u>
31 - 40	[\$ 413]	<u>\$ 445</u>
41 - 50	[\$ 471]	<u>\$ 510</u>
51 - 75	[\$ 589]	<u>\$ 635</u>
76 - 100	[\$ 706]	<u>\$ 765</u>
101 - 250	[\$ 941]	<u>\$1,015</u>
251 - 500	[\$1,765]	<u>\$1,900</u>
501 - 750	[\$2,826]	<u>\$3,050</u>
751 - 1,000	[\$3,532]	<u>\$3,815</u>
1,001 - 1,500	[\$4,711]	<u>\$5,090</u>
1,501 - 2,000	[\$4,814]	<u>\$5,090</u> plus \$1 for each <u>unit</u> over 2,000 units

SECTION 2. AMENDMENT.

MCC Chapter 5.10 is amended to read as follows:

5.10.321 Food Service Plan Review. For the services of the Department of Health in

connection with the review of plans for the construction of food service facilities as those terms are defined in ORS 624, the department shall collect the following fees:

Mobile units	[\$ 97]	<u>\$105</u>
Minor remodeling	[\$ 97]	<u>\$105</u>
Major remodeling	[\$194]	<u>\$210</u>
New construction	[\$242]	<u>\$280</u>

The definition of these categories shall be established by administrative rule.

SECTION 3. AMENDMENT.

MCC Chapter 5.10.322 is amended to read as follows:

5.10.322 Payment of license fees and delinquency penalty:

(A) [ORS 624.020 states that all licenses] Licenses issued under this section [(ORS 624.020)] terminate and are renewable on December 31 of each year. The renewal of license fees imposed by MCC 5.10.320 through 5.10.345 shall be paid or postmarked on or before midnight of January 31 of the current license year, to the department.

(B) Except as provided in subsection (C) of this section, to any license fee not paid as required in subsection (A) and (D) of this section, there shall be added a penalty of fifty percent of such license fees.

(C) If the department determines that the delinquency was due to reasonable cause and without any intent to avoid payment, the penalty provided by subsection (B) of this section shall be waived.

(D) When a license fee is due at any other time of the year other than January 31, the license fee shall be payable to the department within thirty days of application. If the license fee is not paid as provided in this subsection, then subsection (b) of this section shall apply.

(E) The license fee for a seasonal facility, which operates six (6) or fewer consecutive months, shall be payable within 30 days of the first day of operation for the current year. If the fee is not paid as provided in this subsection, then subsection (B) of this section will apply.

(F) One-half of the license fee shall be refunded if an establishment closes or changes ownership within the first two months of the year or within any two-month period of ownership, and the application for a refund is made, in writing, within the same two-month period.

(G) The license fee for a temporary restaurant operating on an intermittent basis at the same specific location in a grouping of less than six shall be \$[108] 120 per month for the first four (4) months of operation within a calendar year, and \$[36] 40 per month for the remainder of the year.

SECTION 4. AMENDMENT.

MCC 5.10.323 is amended to read as follows:

5.10.323 Bed and Breakfast Facilities. Food service license fees: For the services of the Department of Health in connection with the inspection of food service facilities as those terms are defined in ORS 624, the department shall collect a [\$115] \$120 annual license fee from each applicant.

SECTION 5. AMENDMENT.

MCC 5.10.340 is amended to read as follows:

5.10.340 Swimming pool license fee. For the service of the Department of Health in connection with the inspection of public swimming pools, public spa pools, and bathhouses as those terms are defined in ORS 448.005, the department shall collect annual license fees from

each applicant [, except where more than one public swimming pool or public spa pool is] based on the number of swimming or spa pools located at the same address, and operated by the same licensee. [in which case the annual] Annual license fees shall be as follows:

For the first three pools	[\$177]	<u>\$195</u> each.
For each additional pool	[\$ 89]	<u>\$ 95</u> each.

SECTION 6. AMENDMENT

MCC 5.10.341 is amended to read as follows:

5.10.341 Swimming pool and spa plan review. For the services of the Department of Health in connection with the review of plans for the construction of public swimming pools, public spa pools and bathhouses as those terms are defined in ORS 448.005 the department shall collect a [\$473] \$500 fee from each applicant.

SECTION 7. AMENDMENT.

MCC 5.10.345 is amended to read as follows:

5.10.345 Tourist and travelers facilities license fees. For the services of the Department of Health in connection with the issuance of licenses the department shall collect from every applicant at the time of application, the following fees:

Tourist and travelers facilities and recreation parks:

1 - 25 units	[\$145]	<u>\$155</u>
26 - 50	[\$172]	<u>\$185</u>
51 - 75	[\$199]	<u>\$215</u>
76 - 100	[\$226]	<u>\$245</u>
101 units and over	[\$226]	<u>\$245</u> plus \$1 per unit over 101 units

Picnic parks	[\$ 59]	<u>\$ 65</u>
Organizational camps	[\$118]	<u>\$125</u>
Day Camps	[\$ 75]	<u>\$ 80</u>

SECTION 8. AMENDMENT.

MCC Chapter 5.10 is amended to read as follows:

5.10.346 Bed and Breakfast Facilities. Tourist Accommodations license fee. For the services of the Department of Health in connection with the inspection of tourist accommodation facilities as those terms are defined in ORS 446, the department shall collect a [~~\$59~~] \$65 annual license fee from each applicant.

ADOPTED this _____ day of _____, 1994, being the date of its _____ reading before the Board of County Commissioners of Multnomah County,
 ADOPTED this _____ day of _____, 1994, being the date of its _____ reading before the Board of County Commissioners of Multnomah County, Oregon.

(SEAL)



 Beverly Stein, Chair
 Multnomah County, Oregon

REVIEWED:


 Laurence Kressel, County Counsel
 for Multnomah County, Oregon

1 BEFORE THE BOARD OF COUNTY COMMISSIONERS
2 FOR MULTNOMAH COUNTY, OREGON
3 ORDINANCE NO. 803
4

5 An ordinance to provide fee schedule changes for the Environmental Health Section of the
6 Department of Health.

7
8 (Language in brackets [] is to be deleted; underlined language is new)

9
10 Multnomah County ordains as follows:

11
12 SECTION 1. AMENDMENT.

13
14 MCC 5.10.320 is amended to read as follows:

15 5.10.320 Food Service License Fee. For the services of the Department of Health in
16 connection with issuance of food service licenses, the department shall collect a fee from every
17 applicant, at the time of application.

18 The following fee structure shall apply for full service restaurants, limited service
19 restaurants, or commissary licenses issued or applied for between January 1, and [March 31]
20 September 30:

21

22 [Seating Capacity 0-15	\$215
23 Seating Capacity 16-50	\$280
24 Seating Capacity 51-100	\$333
25 Seating Capacity Over 100	\$398
26 Limited Service Restaurants	\$215
27 Commissaries servicing 1-5	
28 mobile units and/or 1-50	
29 vending machines	\$215
30 Commissaries servicing 6 or more	

1 mobile units and/or
 2 51 or more vending
 3 machines \$323]

4
 5 Seating Capacity 0-15 \$230

6 Seating Capacity 16-50 \$300

7 Seating Capacity 51-150 \$360

8 Seating Capacity Over 150 \$430

9 Limited Service Restaurants \$230

10 Commissaries servicing 1-5

11 mobile units and/or 1-50

12 vending machines \$230

13 Commissaries servicing 6 or

14 more mobile units and/or

15 51 or more vending

16 machines \$350

17
 18 Where there are more than two food service facilities located at the same address and
 19 licensed [by] to the same licensee, the licensee fee shall be the amount listed above for the first
 20 two largest facilities and one-half the amount for each additional facility.

21
 22 [The following fee structure shall apply for full-service restaurants, limited service
 23 restaurants, or commissary licenses issued or applied for between April 1 and June 30:

24
 25 Seating Capacity 0-15 \$161

26 Seating Capacity 16-50 \$210

27 Seating Capacity 51-150 \$250

28 Seating Capacity Over 150 \$299

29 Limited Service Restaurants \$161

30

1	Commissaries servicing 1-5	
2	mobile units and/or 1-50	
3	vending machines	\$161
4	Commissaries servicing 6 or	
5	more mobile units and/or	
6	51 or more vending	
7	machines	\$242

9 Where there are more than two food service facilities located at the same address and
10 licensed by the same licensee, the licensee fee shall be the amount listed above for the first two
11 largest facilities and one-half the amount for each additional facility.]

13 The following fee structure shall apply for full-service restaurants, limited service
14 restaurants, or commissary licenses issued or applied for between [July] October 1 and December
15 31:

17	[Seating Capacity 0-15	\$108	
18		Seating Capacity 16-50	\$140	
19		Seating Capacity 51-150	\$167	
20		Seating Capacity Over 150	\$199	
21		Limited Service Restaurants	\$108	
22		Commissaries servicing 1-5		
23		mobile units and/or 1-50		
24		vending machines	\$108	
25		Commissaries servicing 6 or		
26		more mobile units and/or		
27		51 or more vending		
28		machines	\$161]

30 Seating Capacity 0-15 \$115

1	<u>Seating Capacity 16-50</u>	<u>\$150</u>
2	<u>Seating Capacity 51-[100] 150</u>	<u>\$180</u>
3	<u>Seating Capacity Over [100] 150</u>	<u>\$215</u>
4	<u>Limited Service Restaurants</u>	<u>\$115</u>
5	<u>Commissaries servicing 1-5</u>	
6	<u>mobile units and/or 1-50</u>	
7	<u>vending machines</u>	<u>\$115</u>
8	<u>Commissaries servicing 6 or</u>	
9	<u>more mobile units and/or</u>	
10	<u>51 or more vending</u>	
11	<u>machines</u>	<u>\$175</u>

12
13 Where there are more than two food service facilities located at the same address and
14 licensed to the same licensee, the licensee fee shall be the amount listed above for the first two
15 largest facilities and one-half the amount for each additional facility.

16
17 For [licenses issued or applied for, for] the following special food service facilities, the
18 following fees shall be charged for licenses issued or applied for:

19
20 Temporary Restaurants:

21	1 day	[\$ 59]	<u>\$ 65</u>
22	2-4 days	[\$.97]	<u>\$105</u>
23	5 or more days	[\$108]	<u>\$115</u>

24
25 Seasonal Full Service,
26 Commissaries or Limited
27 Service Restaurants
28 Operating Six (6)
29 months or less

[\$108]	<u>\$115</u>
---------	--------------

1	Smoke Shops: Selling		
2	only pre-wrapped food		
3	without the use of		
4	reusable utensils	[\$108]	<u>\$120</u>
5			
6	Warehouses	[\$ 129]	<u>\$ 140</u>
7	Mobile Units	[\$ 115]	<u>\$ 125</u>
8	Vending Machines:		
9	1- 10 units	[\$ 118]	<u>\$ 130</u>
10	11- 20	[\$ 237]	<u>\$ 255</u>
11	21- 30	[\$ 354]	<u>\$ 385</u>
12	31- 40	[\$ 413]	<u>\$ 445</u>
13	41- 50	[\$ 471]	<u>\$ 510</u>
14	51- 75	[\$ 589]	<u>\$ 635</u>
15	76- 100	[\$ 706]	<u>\$ 765</u>
16	101- <u>250</u>	[\$ 941]	<u>\$1,015</u>
17	<u>251</u> - 500	[\$1,765]	<u>\$1,900</u>
18	<u>501</u> - 750	[\$2,826]	<u>\$3,050</u>
19	751-1,000	[\$3,532]	<u>\$3,815</u>
20	1,001-1,500	[\$4,711]	<u>\$5,090</u>
21	1,501-2,000	<u>[\$4,814]</u>	<u>\$5,090</u> plus \$1 for
22			each <u>unit</u> over 2,000
23			units
24			

25 SECTION 2. AMENDMENT.

26
27 MCC Chapter 5.10 is amended to read as follows:

28 5.10.321 Food Service Plan Review. For the services of the Department of Health in
29 connection with the review of plans for the construction of food service facilities as those terms
30 are defined in ORS 624, the department shall collect the following fees:

1	Mobile units	[\$ 97]	<u>\$105</u>
2	Minor remodeling	[\$ 97]	<u>\$105</u>
3	Major remodeling	[\$194]	<u>\$210</u>
4	New construction	[\$242]	<u>\$280</u>

5

6 The definition of these categories shall be established by administrative rule.

7

8

9 SECTION 3. AMENDMENT.

10 MCC Chapter 5.10.322 is amended to read as follows:

11 5.10.322 Payment of license fees and delinquency penalty:

12 (A) [ORS 624.020 states that all licenses] Licenses issued under this section [(ORS
13 624.020)] terminate and are renewable on December 31 of each year. The renewal of license fees
14 imposed by MCC 5.10.320 through 5.10.345 shall be paid or postmarked on or before midnight of
15 January 31 of the current license year, to the department.

16 (B) Except as provided in subsection (C) of this section, to any license fee not paid as
17 required in subsection (A) and (D) of this section, there shall be added a penalty of fifty percent of
18 such license fees.

19 (C) If the department determines that the delinquency was due to reasonable cause and
20 without any intent to avoid payment, the penalty provided by subsection (B) of this section shall
21 be waived.

22 (D) When a license fee is due at any other time of the year other than January 31, the
23 license fee shall be payable to the department within thirty days of application. If the license fee
24 is not paid as provided in this subsection, then subsection (b) of this section shall apply.

25 (E) The license fee for a seasonal facility, which operates six (6) or fewer consecutive
26 months, shall be payable within 30 days of the first day of operation for the current year. If the
27 fee is not paid as provided in this subsection, then subsection (B) of this section will apply.

28 (F) One-half of the license fee shall be refunded if an establishment closes or changes
29 ownership within the first two months of the year or within any two-month period of ownership,
30 and application for a refund is made, in writing, within the same two-month period.

1 (G) The license fee for a temporary restaurant operating on an intermittent basis at the
2 same specific location in a grouping of less than six shall be \$[108] 120 per month for the first
3 four (4) months of operation within a calendar year, and \$[36] 40 per month for the remainder of
4 the year.

5
6
7 SECTION 4. AMENDMENT.

8 MCC 5.10.323 is amended to read as follows:

9 5.10.323 Bed and Breakfast Facilities. Food service license fees: For the services of the
10 Department of Health in connection with the inspection of food service facilities as those terms
11 are defined in ORS 624, the department shall collect a [\$115] \$120 annual license fee from each
12 applicant.

13
14
15 SECTION 5. AMENDMENT.

16 MCC 5.10.340 is amended to read as follows:

17 5.10.340 Swimming pool license fee. For the service of the Department of Health in
18 connection with the inspection of public swimming pools, public spa pools, and bathhouses as
19 those terms are defined in ORS 448.005, the department shall collect annual license fees from
20 each applicant [, except where more than one public swimming pool or public spa pool is] based
21 on the number of swimming or spa pools located at the same address, and operated by the same
22 licensee, [in which case the annual] Annual license fees shall be as follows:

23 For the first three pools [\$177] \$195 each.

24 For each additional pool [\$ 89] \$ 95 each.

25
26
27 SECTION 6. AMENDMENT

28 MCC 5.10.341 is amended to read as follows:

29 5.10.341 Swimming pool and spa plan review. For the services of the Department of
30 Health in connection with the review of plans for the construction of public swimming pools,

1 public spa pools and bathhouses as those terms are defined in ORS 448.005 the department shall
2 collect a [~~\$473~~] \$500 fee from each applicant.

3
4
5 SECTION 7. AMENDMENT

6 MCC 5.10.345 is amended to read as follows:

7 5.10.345 Tourist and travelers facilities license fees. For the services of the Department
8 of Health in connection with the issuance of licenses the department shall collect from every
9 applicant at the time of application, the following fees:

10 Tourist and travelers facilities and recreation parks:

11	1 - 25 units	[\$145]	<u>\$155</u>
12	26 - 50	[\$172]	<u>\$185</u>
13	51 - 75	[\$199]	<u>\$215</u>
14	76 - 100	[\$226]	<u>\$245</u>
15	101 units and over	[\$226]	<u>\$245</u> plus \$1 per unit over
16			101 units
17	Picnic parks	[\$ 59]	<u>\$ 65</u>
18	Organizational camps	[\$118]	<u>\$125</u>
19	Day Camps	[\$ 75]	<u>\$ 80</u>

20
21
22 SECTION 8. AMENDMENT

23 MCC Chapter 5.10 is amended to read as follows:

24 5.10.346 Bed and Breakfast Facilities. Tourist Accommodations license fee. For the
25 services of the Department of Health in connection with the inspection of tourist accommodation
26 facilities as those terms are defined in ORS 446, the department shall collect a [~~\$59~~] \$65 annual
27 license fee from each applicant.

1 ADOPTED this 27th day of October, 1994, being the date of its
2 second reading before the Board of County Commissioners of Multnomah County,

3 Oregon:



4
5
6 *Beverly Stein*
7 _____
8

Beverly Stein, Chair
Multnomah County, Oregon

9 REVIEWED:

10
11 *Laurence Kressel*
12 _____
13 Laurence Kressel, County Counsel
14 for Multnomah County, Oregon

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29 10/94
30

MEETING DATE: OCT 27 1994

AGENDA NO.: R-5

(Above space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Ratification of intergovernmental agreement with OHSU

BOARD BRIEFING Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: October 20, 1994

Amount of Time Needed: Less than 5 minutes

DEPARTMENT: Health DIVISION: _____

CONTACT: Tom Fronk TELEPHONE #: 4274

BLDG/ROOM #: 160/7

PERSON(S) MAKING PRESENTATION: Tom Fronk/Mary Lou Hennrich

ACTION REQUESTED:

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

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

Ratification of Intergovernmental Agreement Contract 201095 between Oregon Health Sciences University (University Medical Group) and Multnomah County, on behalf of CareOregon, providing physicians services while CareOregon clients are patients at OHSU, for the period upon execution through automatic annual renewal until termination of the revenue contract between Multnomah County (CareOregon) and State of Oregon, Office of Medical Assistance Programs.

SIGNATURES REQUIRED:

10/27/94 ORIGINALS to Jim Kennedy
ELECTED OFFICIAL: _____

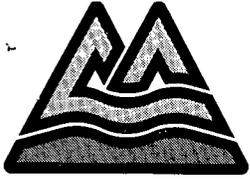
Or

DEPARTMENT MANAGER: Billi Odegaard

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
1994 OCT 19 PM 3:29

(ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES)

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222



MULTNOMAH COUNTY OREGON



HEALTH DEPARTMENT
426 S.W. STARK STREET, 8TH FLOOR
PORTLAND, OREGON 97204-2394
(503) 248-3674
FAX (503) 248-3676
TDD (503) 248-3816

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

MEMORANDUM

TO: Board of County Commissioners

FROM: Bill Odegaard, Health Department Director

REQUESTED PLACEMENT DATE: ~~November 3, 1994~~

DATE: October 19, 1994

SUBJECT: Intergovernmental agreement with Oregon Health Sciences University, dba as University Medical Group, on behalf of CareOregon.

I. Recommendation/Action: The Health Department recommends approval of this intergovernmental agreement with Oregon Health Sciences University (OHSU), doing business as University Medical Group (UMG), for the period from the date of execution to automatic annual renewal until termination of the revenue agreement between Multnomah County (CareOregon) and State of Oregon, Oregon Medical Assistance Program.

II. Background/Analysis: OHSU is composed of faculty physicians who are members of University Medical Group (UMG), a medical service organization providing contracting management, billing, and managed care services to the faculty. The faculty physicians are on the staff of the university and, within the course and scope of their duties, practice medicine and provide medical services at University Hospital and affiliated clinics. OHSU is currently under contract (#202424) with Multnomah County (CareOregon) to provide hospital services to CareOregon clients. This agreement confirms the hospital's physicians participation in

CareOregon and establishes the fee-for-service rate schedule.

III. Financial Impact: The expenditures in this agreement are reimbursed to the Health Department through its Oregon Health Plan agreement with the Office of Medical Assistance Programs which is operating the Oregon Health Plan.

IV. Legal Issues: none.

V. Controversial Issues: none.

VI. Link to Current County Policies: This agreement is in direct support of CareOregon which is participating of the Oregon Health Plan.

VII. Citizen Participation: none.

VIII. Other Government Participation: All parties to this agreement are governmental bodies.



CONTRACT APPROVAL FORM
(See Administrative Procedure #2106)

MULTNOMAH COUNTY OREGON

Contract # 201095
Amendment # _____

<p style="text-align: center;">CLASS I</p> <input type="checkbox"/> Professional Services under \$25,000	<p style="text-align: center;">CLASS II</p> <input type="checkbox"/> Professional Services over \$25,000 (RFP, Exemption) <input type="checkbox"/> PCRB Contract <input type="checkbox"/> Maintenance Agreement <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Construction <input type="checkbox"/> Grant <input type="checkbox"/> Revenue	<p style="text-align: center;">CLASS III</p> <input checked="" type="checkbox"/> Intergovernmental Agreement <p style="text-align: center;">APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS</p> <p>AGENDA # <u>R-5</u> DATE <u>10/27/94</u> <u>DEB BOGSTAD</u> BOARD CLERK</p>
----------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Department Health Division _____ Date October 19, 1994

Contract Originator Jim Kennedy Phone 6747 Bldg/Room 160/8

Administrative Contact Tom Fronk Phone 4274 Bldg/Room 160/7

Description of Contract Contractor agrees to provide physician services while CareOregon clients are inpatients at OHSU

RFP/BID # _____ Date of RFP/BID _____ Exemption Exp. Date _____

ORS/AR # _____ Contractor is MBE WBE ORF

Contractor Name Oregon Health Sciences University (OHU) University Medical Group

Mailing Address 3181 SW Sam Jackson Park Road
Portland, Oregon 97201-3098

Phone 494-6060

Employer ID# or SS# 93-6001786

Effective Date upon execution

Termination Date annual renewal

Original Contract Amount \$ requirements

Total Amount of Previous Amendments \$ _____

Amount of Amendment \$ _____

Total Amount of Agreement \$ _____

Remittance Address _____
(If Different)

Payment Schedule	Terms
<input type="checkbox"/> Lump Sum \$ _____	<input type="checkbox"/> Due on receipt
<input type="checkbox"/> Monthly \$ _____	<input type="checkbox"/> Net 30
<input type="checkbox"/> Other \$ _____	<input type="checkbox"/> Other _____
<input type="checkbox"/> Requirements contract - Requisition required.	
Purchase Order No. _____	
<input type="checkbox"/> Requirements Not to Exceed \$ _____	

REQUIRED SIGNATURES:

Department Manager Billie Adigaard

Purchasing Director _____
(Class II Contracts Only)

County Counsel _____

County Chair / Sheriff _____

Contract Administration _____
(Class I, Class II Contracts Only)

Encumber: Yes No

Date 10/13/94

Date _____

Date 10-19-94

Date October 27, 1994

Date _____

VENDOR CODE			VENDOR NAME						TOTAL AMOUNT \$		
LINE NO.	FUND	AGENCY	ORGANIZATION	SUB ORG	ACTIVITY	OBJECT/ REV SRC	SUB OBJ	REPT CATEG	LGFS DESCRIPTION	AMOUNT	INC/ DEC IND
01.	390	015	0650			6110			OMAP	requirements	
02.											
03.											

* If additional space is needed, attach separate page. Write contract # on top of page.

INSTRUCTIONS ON REVERSE SIDE

WHITE - CONTRACT ADMINISTRATION CANARY - INITIATOR PINK - FINANCE

AD-95-009

SPECIALTY CARE SERVICES AGREEMENT

Between

CareOregon

and

Oregon Health Sciences University

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SPECIALTY CARE SERVICES AGREEMENT

Between: CareOregon
1500 SW First Avenue, Suite 250
Portland, Oregon 97201-5831

And: Oregon Health Sciences University
3181 S.W. Sam Jackson Park Road
Portland, Oregon 97201

Dated: _____, 1994

THIS AGREEMENT, effective when fully executed, is by and between CareOregon and Oregon Health Sciences University.

BACKGROUND

A. WHEREAS, "CareOregon" is an assumed business name of Multnomah County, Oregon. The Multnomah County Health Department administers CareOregon. CareOregon is authorized to provide managed health care services for Oregon Medicaid recipients.

B. WHEREAS, Oregon Health Sciences University is composed of faculty physicians who are on the staff of the university and, who within the course and scope of their duties, practice medicine and provide medical services at University Hospital and affiliated clinics.

C. WHEREAS, Faculty physicians are members of University Medical Group ("UMG"), a medical service organization providing contracting management, billing, and managed care services to the faculty.

D. WHEREAS, CareOregon and Physicians mutually desire to enter into a relationship whereby Physicians will be known as "Participating Providers," and will provide certain Health Care Services to Members in a quality cost effective manner consistent with the scope of the Physicians' Licenses.

E. WHEREAS, This Specialty Care Services Agreement sets forth the terms under which Participating Provider will contract with CareOregon to provide certain specialty health services to Oregon Medicaid recipients.

F. NOW, THEREFORE, in consideration of mutual covenants and conditions hereinafter set forth, and intending to be legally bound, the parties hereto agree as follows:

AGREEMENT

1. Definitions

Whenever used in this Agreement, the following terms shall have the meanings set forth below:

1.1 "CareOregon" is defined in Recital A above.

1.2 "CareOregon Policies" means the policies, procedures, protocols, forms and guidelines (including but not limited to grievance procedures, quality assurance protocols, utilization management protocols, and credentialing procedures) adopted from time to time by CareOregon.

1.3 "Compensation" means the amount CareOregon pays to Provider in accordance with Section 5, as is listed in the fee-for-service rate schedule set forth in Exhibit A.

1.4 "Covered Services" means those Medically Appropriate services and supplies specified in OAR 410-141-480, Oregon Health Plan Benefit Package of Covered Services, together with the optional services CareOregon has undertaken to provide under the OMAP Agreement. The term "Covered Services" may be expanded, limited or otherwise changed pursuant to the OMAP Agreement and OMAP Rules.

1.5 "Emergency Services" means Covered Services that are needed immediately or appear to be needed immediately because of an injury or sudden illness. Covered Services provided by an appropriate source other than a Participating Provider are considered Emergency Services if the time required to reach a Participating Provider would have meant risk of permanent damage to the Member's health. These services are considered to be Emergency Services as long as transfer of the Member to a Participating Provider is precluded because of risk to the Member's health or because transfer would be unreasonable, given the distance involved in the transfer and the nature of the medical condition. If the definition of "Emergency Services" in OAR-141-000(17) is amended, the foregoing definition shall be amended accordingly.

1.6 "Faculty Physician" means an individual who is licensed to provide specialty care services and who is employed by, a partner in, or under contract to University.

1.7 "Fee-For-Service Payment" means a fee-for-service payment based on the CareOregon fee-for-service rate schedule set forth in Exhibit A for any Covered Services that are provided to a Member.

1.8 "Medical Director" means the physician licensed by the Oregon Board of Medical Examiners (BME) who serves as the medical director of CareOregon, or his or her so licensed designee.

1.9 "Medically Appropriate" means services and medical supplies which are required for prevention, diagnosis or treatment for sickness or injury and which are:

1.9.1 Consistent with the symptoms of a medical condition or treatment of a medical condition;

1.9.2 Appropriate with regard to standards of good medical practice and generally recognized by the medical scientific community as effective;

1.9.3 Not solely for the convenience of the Member or a provider of the service or medical supplies; and

1.9.4 The most cost effective of the alternative levels of service or medical supplies which can be safely provided the Member in Provider's judgment.

1.10 "Medical Card" means the identification card issued by OMAP upon determination of eligibility, specifying the managed care plan or practitioner with which the recipient is enrolled.

1.11 "Member" means an individual who is found eligible by an Oregon Department of Human Resources Division to receive services under one or more of the medical assistance programs administered by OMAP and who is enrolled with CareOregon.

1.12 "Non-Emergency Services" means those Covered Services which are not Emergency Services.

1.13 "OMAP" means the State of Oregon, acting by and through its Department of Human Resources, Office of Medical Assistance Programs.

1.14 "OMAP Agreement" means the Provider Services Agreement dated February 1, 1994 between OMAP and CareOregon, as amended from time to time.

1.15 "OMAP Rules" means the administrative rules duly promulgated by OMAP under OAR Chapter 410.

1.16 "Participating Provider" means a Faculty Physician who is a member of University Medical group and is providing specified Covered Services to CareOregon Members. Provider is a Participating Provider so long as this Agreement is in effect.

1.17 "PCP" means a primary care practitioner who is licensed, and who has contracted with CareOregon to provide Primary Care Services.

1.18 "Provider" is defined in the heading.

1.19 "Provider Manual" means the manual described in Section 4.2 that is provided by CareOregon to participating providers.

1.20 "Referring Provider" means the primary care provider referring a CareOregon Member for specialty care services.

1.21 "University" means the Oregon Health Sciences University.

2. Engagement

2.1 Specialty Care Services. CareOregon hereby engages Provider as an independent contractor to provide specialty care services to Members within the scope of Provider's license and training.

2.2 Limitation on Third Party Beneficiaries. This Agreement shall in no way be construed to provide any rights directly to Members or other persons who are not parties, except that Members may assert Section 8.1 hereof.

2.3 Superseding Requirements. This Agreement and the relationship between CareOregon and Provider is subject to the OMAP Agreement and OMAP Rules. If there is a conflict between the terms of this Agreement and the OMAP Agreement or OMAP Rules, the terms of the OMAP Agreement or OMAP Rules shall control.

3. Duties of Provider

3.1 Specialty Care Services. Provider shall accept all Members referred by Referring Provider for diagnosis and treatment. Members shall be treated without discrimination of any kind.

3.2 Referrals. Provision of Non-Emergency Services shall be preauthorized by a referral in accordance with CareOregon Policies. The Covered Services to be rendered, the number and frequency of treatments, and the period during which services may be rendered shall all be as limited by the referral. Except with the written consent of the Medical Director, or as permitted by the CareOregon Policies, referrals are only permitted to Participating Providers.

3.3 Eligibility. Before providing Covered specialty care services (other than Emergency Services) to a Member, Provider shall determine that the Member possesses a facially valid and current Medical Card and supporting identification.

3.4 Standards. Provider shall:

3.4.1 Provide specialty care services in a manner which assures continuity and coordination of the health care services provided to each Member;

3.4.2 Conduct its practice and treat all Members using that degree of care, skill, and diligence which is used by ordinarily careful providers in the same or similar circumstances in the Provider's community or a similar community (see ORS 677.095);

3.4.3 Obtain and maintain, and require its employees, partners, agents and subcontractors rendering services under this Agreement to obtain and maintain, any and all required licenses, certificates or qualifications, and give CareOregon immediate notice of the lapse, termination, cancellation, limitation, qualification or suspension of the same; and

3.4.4 Comply with all OMAP Rules and CareOregon Policies and with other applicable state and federal laws and regulations.

3.5 Name Provider shall allow its name to be used in connection with CareOregon's communication with Members and potential Members.

3.6 Utilization Management and Quality Review. Provider shall cooperate with, and participate in, CareOregon's Utilization Management and Quality Review Program.

3.7 Miscellaneous Federal Laws. Provider shall comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 C.F.R. Part 15), which prohibit the use of facilities included on the EPA List of Violating Facilities. Provider shall report any violations to OMAP, to the department of Health and Human Services, and to the U.S. EPA Assistant Administrator for Enforcement (EN-329). Provider shall comply with other applicable federal law.

3.8 Energy Efficiency. Provider shall comply with any applicable mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with Energy Policy and Conservation Act (Title III, Part C, Pub. L. 94-165).

3.9 Equal Opportunity. To the extent applicable, Provider shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 C.F.R. Part 60).

3.10 Advance Directives. Provider shall comply with the requirements of Oregon Revised Statutes, Chapter 127, as amended by the Oregon Legislative Assembly 1993, pertaining to advance directives.

3.11 Lobbying. Provider acknowledges that no federal appropriated funds have been paid or shall be paid, by or on behalf of Provider, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of federal contract, grant, loan or cooperative agreement. Provider agrees that if any funds other than federal appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee or a member of Congress in connection with this federal contract, grant, loan or cooperative agreement, Provider shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

4. Duties of CareOregon

4.1 General. CareOregon shall perform all administrative, accounting, member communication, enrollment and other functions necessary or appropriate for the administration of this Agreement.

4.2 Provider Manual. CareOregon shall supply Provider with a copy of the "Provider Manual" and periodic additions and changes thereto. The "Provider Manual" shall include copies of the CareOregon Policies, relevant provision of the OMAP Rules and the OMAP Agreement, a list of Participating providers, and any other documents necessary to guide Provider. Services provided under this Agreement are subject to CareOregon Policies regarding specialty care.

4.3 Enrollment. CareOregon shall process all Member data and shall help members select, or shall assign members to a PCP.

4.4 Identification and Eligibility. CareOregon shall supply Members with a CareOregon identification card. CareOregon shall make available information regarding the current enrollment and form of benefit plans of Members.

4.5 Responsiveness. CareOregon shall maintain adequate personnel and facilities to provide timely telephone and written response, during normal business hours, to inquiries regarding eligibility, Covered Services, PCP assignment to Members, and prior authorization of written referrals.

4.6 Participating Providers. CareOregon shall contract with a panel of primary care, specialty, ancillary, inpatient and tertiary providers that is adequate to service the Member population. CareOregon shall publish and maintain a list of Participating Providers. Provider shall be listed as a specialty care provider of CareOregon.

4.7 Credentialing. CareOregon shall adopt Provider Credentialing Guidelines, shall include them in the Provider Manual, and shall credential each Specialist under those Guidelines. Any adverse credentialing action shall be taken only pursuant to those Guidelines.

4.8 Names. CareOregon shall assure that any registration necessary or desirable for the use of CAREOREGON and any other names or logos CareOregon uses (the "Names") as an assumed business name and service mark is filed and maintained and that CareOregon has rights to use the Names for managed care services in Oregon. Provider may use the Names in connection with communication with Members and potential Members.

5. Provider Compensation

5.1 Fee-for-Service Payments. Provider shall submit Fee-For-Service bills to CareOregon within 90 days of the provision of the specialty care services being billed. Provider shall submit Fee-For-Service bills in the form and manner specified in the CareOregon Policies. CareOregon shall pay to Provider, by the 60th day after a clean claim is received, Fee-For-Service Payments for specialty care services that are provided to a Member. Billing and payment for all fee-for-service claims shall be pursuant to Care Oregon Policies.

5.2 Conditions for Payment. CareOregon shall have no obligation to make Fee-For-Service Payments to Provider relating to an individual if:

5.2.1 Provider fails to obtain a valid written referral to provide specialty care services in accordance with CareOregon Policies; or

5.2.2 Information provided to CareOregon by Provider is materially inaccurate, and CareOregon should later determine either that the individual was not eligible or the services were not specialty care services; or

5.2.3 The delivered services do not comply with this Agreement or with the quality of care and utilization standards adopted in the CareOregon Utilization Management and Quality Review Program; or

5.2.4 Provider fails to submit Fee-For-Service bills within 90 days of the day on which the Specialty Care Service being billed was provided to the Member.

5.3 Overpayments. Any payments received by Provider in breach of section 5.2, and any other payments received by Provider from CareOregon to which Provider is not entitled under the terms of this Agreement, shall be considered an overpayment and shall be recovered from Provider as an offset against future payments due, in accordance with OAR 410-120-740, or as otherwise provided by law.

5.4 Coordination of Benefits. CareOregon reserves the right to coordinate benefits with other health plans, insurance carriers, government agencies and CareOregon. CareOregon may release medical information to such other parties as necessary to accomplish the coordination of benefits in conformity with applicable confidentiality laws. Coordination of benefits shall not result in compensation in excess of the amount determined by this Agreement, except where state laws or regulations require the contrary. If Provider has knowledge that a Member has third party health insurance or health benefits or that either Member or Provider is entitled to payment by a third party, Provider shall immediately so advise CareOregon. CareOregon shall be entitled to a credit or refund for the exact amount of duplicate payment received by Provider. Provider shall follow CareOregon Policies, including referrals only to Participating Providers, even when other coverage is available to Member.

5.5 Effect of Payment: Non-Covered Services. The payments to Provider by CareOregon under this Section 5 shall compensate Provider and all persons providing specialty care services under or through Provider, including Provider's subcontractors, for the provision of specialty care services to Members. Services, supplies or equipment which are not Covered Services may be the responsibility of the Member, and Provider may bill and collect separately for those which are lawfully the responsibility of the Member. Payment by CareOregon shall not constitute a waiver of defenses.

5.6 Encounter Data. Provider shall submit to CareOregon encounter data for each contact with a Member, in accordance with CareOregon Policies. Provider acknowledges that CareOregon is subject to additional costs and administrative fees for failure to submit encounter data in compliance with OMAP Rules. Provider shall indemnify CareOregon for any such costs or fees caused by Provider's failure to promptly deliver encounter data after reasonable notice of such failure.

5.7 Surcharges. Provider shall not charge, bill or attempt to collect from CareOregon or the Member for any charges incurred in connection with specialty care services, except for any copayment, deductible, or other surcharge allowed by the OMAP Rules ("Permitted Surcharge"). The agreement of a Member to the contrary shall not bind CareOregon. In no event, including, but not limited to nonpayment by CareOregon, CareOregon's insolvency or breach of this Agreement, shall Provider bill, charge, collect a deposit from, seek compensation, copayment, deductible, remuneration or reimbursement (other than a Permitted Surcharge) from, or have any recourse against OMAP, a Member or other person, other than CareOregon, for specialty care services. This provision shall not prohibit collection for non-Covered Services, which have not otherwise been paid by a primary or secondary carrier in accordance with regulatory standards for coordination of benefits. In the event of CareOregon's insolvency, Provider shall continue to provide specialty care services to Members for the duration of the period for which CareOregon was paid a capitation payment by OMAP on behalf of the Member or until the Member's discharge from inpatient facilities, whichever is later.

5.8 Incentive Arrangements. CareOregon shall establish and Provider shall participate in incentive arrangements for specialty, ancillary and institutional services, as set forth in Appendix C.

6. **Indemnity and Insurance**

6.1 Indemnity.

6.1.1 Provider shall defend, indemnify, save and hold harmless CareOregon and OMAP, and each of their respective officers, agents and employees, from all damages, costs and liabilities, including attorney fees, arising out of all actions, suits or claims or whatsoever nature resulting from or arising out of the activities or omissions of Provider or its subcontractors, agents or employees, subject to the limitations of Oregon or federal law.

6.1.2 CareOregon shall defend, indemnify, save and hold harmless Provider, and its officers, partners, shareholders, agents and employees, from all damages, costs and liabilities, including attorney fees, arising out of all actions, suits or claims or whatsoever nature resulting from or arising out of the activities or omissions of CareOregon or any of its subcontractors, agents or employees, other than Provider or persons acting through Provider, subject to the limitations of Oregon law.

6.2 Liability Insurance. University shall provide tort liability coverage pursuant to the Oregon Tort Claims Act, O.R.S. 30.260 to 30.300, and subject to the limits of the Act, for all patient care provided by Faculty Physicians within the scope of their employment by University. University is an agency of the State of Oregon. The State of Oregon is self-insured under the provisions of O.R.S. 278.425 and 278.435 for tort liability, including personal injury and property damage. The limits of liability will not be less than \$500,000 for any number of claims arising out of a single accident or occurrence.

6.3 Legal Claims.

6.3.1 Each party shall furnish, and shall require any person under contract with it to furnish, notice to any affected parties promptly after receipt of any claim or any threatened claim which might give rise to an obligation of indemnity under this Section 6.

6.3.2 Each party shall cooperate with the other parties and their respective insurance carriers in order to handle such claims as economically as possible.

6.4 Workers' Compensation. Provider shall maintain Workers' Compensation Insurance coverage for all nonexempt workers, employees, and subcontractors either as a carrier-insured employer or a self-insured employer as Defined in ORS Chapter 656. Out-of-state employers or subcontractors shall provide Oregon Worker's Compensation coverage for their workers who work at a single location within Oregon for more than thirty (30) days in a calendar year. Contractors or subcontractors who perform work for Provider without the assistance or labor of any employee may file a statement with provider indicating this status. A certificate showing current Worker's Compensation Insurance is attached to this Agreement as Exhibit B and incorporated as a part of this Agreement.

7. **Records and Confidentiality of Records**

7.1 Maintenance. Provider shall maintain financial, medical and other records pertinent to this Agreement. All records other than medical records shall be retained by Provider for at least three years after final payment is made under this Agreement and all pending matters are closed. Additionally, if an audit, litigation or other action involving the records is started before the end of the three-year period, the records shall be retained until all issues arising out of the action are resolved. Provider shall maintain certain medical records for at least four years after the date of service or for such longer length of time as may be dictated by generally accepted standards for record keeping, in accordance with OAR 410-141-180.

7.2 Access. At all reasonable times, Provider shall provide CareOregon, OMAP, the Health Care Financing Administration, the Comptroller General of the United States, the Oregon Secretary of State, and all of their duly authorized representatives the right of access to its facilities and to its financial and medical records which are directly pertinent to this Agreement. These records will be made available for the purpose of making audit, examination, excerpts and transcriptions, for purposes and in accordance with the processes authorized by law. Provider shall, upon request, provide a reasonably available, suitable work area and (for a mutually agreeable charge) copying capabilities to facilitate such an audit or review.

7.3 Confidentiality. Subject to the requirements of applicable law, including 42 CFR Part 431, Subpart F, Provider and CareOregon shall not use, release or disclose any information concerning a member for any purpose not directly connected with the administration of this Agreement, except with the written consent of the Member, the Member's attorney or, if appropriate, the Member's parent or guardian. Provider shall maintain the confidentiality of medical records in accordance with applicable law, including ORS 433.045(3) with respect to HIV test information. Provider and CareOregon shall ensure that their agents, employees, officers and subcontractors with access to the Member's records understand and comply with this confidentiality provision.

7.4 Survival. All of this Article 7 shall survive termination of this Agreement for a period of five years.

8. Grievance Procedures

8.1 Members. CareOregon shall maintain and publish procedures for hearing and responding to the grievances of Members and Participating providers. Provider shall cooperate with such grievance procedures.

8.2 Sanctions. CareOregon may impose sanctions upon Provider for failing to comply with the terms of this Agreement in accordance with the CareOregon Policies. Such sanctions may include additional costs or administrative fees and temporary suspension of participation by Provider or one of its employees, partners, officers, or subcontractors.

9. Term and Termination

9.1 Effective Date and Term. This Agreement will be in effect on the date of execution. The initial term shall be the same as the term of the OMAP Agreement. This Agreement shall thereafter be automatically renewed for the renewal term of the OMAP Agreement.

9.2 Termination Without Cause. Either party may terminate this Agreement without cause by giving the other party written notice of termination of at least 90 days prior to the effective termination date, which may be the last day of any month designated in the notice.

9.3 Termination by CareOregon with Cause. Following notice to Provider setting forth the specific grounds for termination or suspension, CareOregon may terminate or suspend this Agreement with immediate effect upon the occurrence of :

9.3.1 The lapse, relinquishment, suspension, expiration, cancellation or termination of any required license, certification or qualification of Provider or the lapse, relinquishment, suspension, expiration, cancellation or termination of Provider's insurance as required in Section 6.3;

9.3.2 The termination, suspension or expiration of the OMAP Agreement;

9.3.3 Provider's filing for protection under the U.S. Bankruptcy Code, the appointment of a receiver to manage Provider's affairs, or the judicial declaration that Provider is insolvent;

9.3.4 The discovery by CareOregon that the representations and warranties of Provider under Section 2.1 are materially inaccurate or the violation by Provider of any material provision of this Agreement or the CareOregon Policies, if the same is not cured within 30 days after notice of the misrepresentation or violation; or

9.3.5 A danger posed by Provider to the health or safety of Members in the sole discretion of CareOregon.

Following any such suspension or termination, CareOregon's grievance or credentialing process will be available to resolve any dispute about the grounds for termination or suspension.

9.4 Termination by Provider With Cause. Following notice to CareOregon setting forth the specific ground for termination or suspension, Provider may terminate or suspend this Agreement with immediate effect upon the occurrence of:

9.4.1 The failure of CareOregon to make any payment required under this Agreement within 30 days after a notice from Provider that it is past due; or

9.4.2 The discovery by Provider that the representations and warranties of CareOregon in Section 2.1 are materially inaccurate or the violation by CareOregon of any material provision of this Agreement or the CareOregon Policies (other than the failure to make a payment), if the same is not cured within 30 days after notice of the misrepresentation or violation.

9.5 Transition. The parties shall continue to perform all of their duties and obligations with respect to Members then under the care of Provider to the date of termination. Provider shall be eligible for reimbursement under the terms of this Agreement during such period. Provider is entitled to receive all earned compensation to the date of termination.

9.6 Duties After Termination. Upon termination of this Agreement:

9.6.1 Provider shall ensure the orderly and reasonable transfer of Member care in progress;

9.6.2 If Provider continues to provide specialty care services after the date of termination, CareOregon shall make Fee-For-Service Payments if the former Member is an OMAP recipient and CareOregon qualifies for such payments from OMAP; and

9.6.3 There shall be a final accounting of payments due to or refunds payable by Provider.

9.7 Survival. The following provisions of this Agreement shall survive its termination: Sections 1, 3.5, 6.1, 6.3, 7, 8, 9.6 and 10.3 to 10.7. Section 5 shall survive termination with respect to compensation for periods prior to termination.

10. Miscellaneous

10.1 Amendments. This Agreement and the CareOregon Policies may be amended in writing by CareOregon, and such amendment shall automatically become effective 31 days after written notice to Provider, unless specifically rejected by Provider in writing within 30 days of such written notice. Any other amendment requires written consent of Provider.

10.2 Assignment. Provider may not assign this Agreement or any of its obligations or rights hereunder without the written consent of CareOregon. CareOregon may assign this Agreement or any of its obligations or rights hereunder without the consent of Provider. In the event of merger, consolidation or acquisition of either party, this Agreement shall be binding on the parties and any successors of the parties.

10.3 Integration. This agreement, including all Exhibits, constitutes the entire agreement between the parties pertaining to its subject matter, and supersedes all prior agreements and understandings of the parties.

10.4 Notices. All notices shall be in writing and shall be deemed delivered if personally delivered or dispatched by express, certified or registered mail, return receipt requested, addressed to the parties as set forth opposite their respective names below:

CareOregon	CareOregon 1500 SW First Avenue, Suite 250 Portland, OR 97201-5831 Attention: Plan Administrator
University	Oregon Health Sciences University 3181 S.W. Sam Jackson Park Road Portland, Oregon 97201 Attention: Tom Fox Ph. D.
UMG	University Medical Group 921 S.W. Washington, Suite 300 Portland, Oregon 97201 Attention: Linda Galante

Notice shall be deemed given on the date it is personally delivered, or one day after the date it is dispatched by express, or three days after the date it is deposited in the U.S. Mail in accordance with the foregoing. Telefax notice shall be deemed delivered if receipt is acknowledged in writing. Either party may at any time change its address for notification purposes by mailing a notice as required above stating the change and setting forth the new address. The new address shall be effective on the date specified in such notice or if no date is specified, on the fifth (5th) day following the date such notice is received.

10.5 Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, except in those instances where removal or elimination of such invalid, illegal or unenforceable provision or provisions would result in a failure of consideration under this Agreement, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

10.6 Availability of Funds. CareOregon's liability under this Agreement is subject to the limitations and conditions of Oregon Constitution Article XI, Sections 9 (pertaining to limitations on powers of county to assist corporations) and 10 (pertaining to county debt limitation).

10.7 Governing Law. This Agreement shall be governed by the laws of the State of Oregon. The parties stipulate to jurisdiction and venue in the Oregon Circuit Court for the County of Multnomah for any actions under this Agreement.

IN WITNESS WHEREOF, the parties have executed this agreement to be effective as of the ____ day of _____, 1994.

Oregon Health Sciences University

Multnomah County, Oregon
doing business as CareOregon

for By David C. Bunnell
James B. Walker
Title Vice President, Finance & Administration

By Beverly Stein
Beverly Stein
Title Multnomah County Chair

University Medical Group

Reviewed:

Multnomah County Counsel

By Harry Hingston
Title PRES. UMG

By Laurence Kressel
Laurence Kressel
Title County Counsel

State of Oregon Acting by and through
the State Board of Higher Education on
behalf of University Hospital of the
Oregon Health Sciences University

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-5 DATE 10/27/94
DEB BOGSTAD
BOARD CLERK

By Z N/A
Title Z

EXHIBIT A

Fee-For-Service Rate Schedule

CareOregon will compensate Provider on a Fee-For-Service basis according to the rate schedule in effect on the dates of service.

Effective February 1, 1994, CareOregon will use Medicare's Resource Based Relative Value Scale (RBRVS) to establish its fee schedule for specialty care services. CareOregon will use the Relative Value Unit (RVU) for providers' work, overhead costs, and professional liability insurance costs. Medicare's Geographic Adjustment Factor and Volume Performance Standard will not be used.

CareOregon's conversion factors effective as of February 1, 1994 are:

Code	Conversion Factor
All procedures except OB	\$23.75 per unit
OB codes	\$27.00 per unit

EXHIBIT B

PROVIDER INCENTIVE PLAN

The CareOregon Advisory Board identified the values and goals guiding the CareOregon incentive arrangements. These goals include assuring CareOregon remain financially solvent and supporting the CareOregon coalition partners by strengthening provision of preventive and primary care services and providing incentives for appropriate use of health services. Three incentive pools have been established by CareOregon. These pools will be settled every six months, with the first reporting period beginning on February 1, 1994 and ending on July 31, 1994. The distribution of any savings will occur 120 days after the end of the reporting period.

An actuarially determined amount will be allocated to the Specialty Services Fund (SSF), Ancillary Services Fund (ASF) and the Facility and facility related Services Fund (FSF) from the capitation revenue received by CareOregon from OMAP each month. Claims experience in each of the funds will be tracked by member and by participating primary care clinic. For the purpose of calculating savings or a deficit in the funds for the reporting period, revenue and expenses will be aggregated into the following accounts: a) the Multnomah County Primary Care Clinics account; b) the OHSU Primary Care Clinics account; and c) all other Primary Care Clinics account.

To protect the plan against insolvency, deficits in the SSF and the ASF, by account, will be balanced by transferring savings between funds before making transfers to the SSF Incentive Pool and the ASF Incentive Pool. A Facility Utilization Incentive Pool (FUIP) will be funded by transferring \$1.50 pmpm from the FSF. Deficits in either the FSF or the combined SSF and ASF may be balanced by transfers between them up to a maximum of \$1.50 pmpm. After deficits have been balanced, savings in any of the pools will be available for distribution.

The savings in each of the above referenced SSF clinics accounts will be distributed from the SSF Incentive Pool as follows: 50% to Primary Care Clinics/Providers (PCPs) who generated savings; 30% to University Medical Group (UMG); and 20% to the CareOregon reserve fund.

The savings in each of the above referenced ASF clinics accounts will be distributed from the ASF Incentive Pool as follows: 68% to Primary Care Clinics/Providers (PCPs) who generated savings; 12% to UMG; and 20% to the CareOregon reserve fund.

The money in the FUIP will be distributed as follows: 50% to Primary Care Clinics/Providers (PCPs) who generated savings; 30% to UMG and 20% to OHSU.

PCP distributions from the incentive pools will be distributed to each PCP in proportion to the amount of the savings generated by the PCP. Any PCP who did not generate savings through their own performance will not receive a distribution.

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: IGA between Metro and the Sheriff's Office

BOARD BRIEFING: Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: October 20
~~October 6~~, 1994

Amount of Time Needed: 5 - 10 minutes

DEPARTMENT: Sheriff's Office DIVISION: Enforcement

CONTACT: Larry Aab TELEPHONE #: 251-2489

BLDG/ROOM #: 313/231

PERSON(S) MAKING PRESENTATION: Bob Skipper, Sheriff

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

Intergovernmental Agreement between Metro and the Sheriff's Office to allow Metro the use of the County's law enforcement aircraft and personnel for aerial surveillance services.

10/27/94 ORIGINALS TO LARRY AAB

REGULAR

SIGNATURES REQUIRED:

ELECTED OFFICIAL: *Bob Skipper* *J.E.*

OR

DEPARTMENT MANAGER: _____

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
1994 OCT 18 AM 8:58

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/5222

BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM BRIEFING
STAFF REPORT SUPPLEMENT

TO: BOARD OF COUNTY COMMISSIONERS

FROM: LARRY AAB, FISCAL MANAGER

TODAY'S DATE: September 20, 1994

REQUESTED PLACEMENT DATE: ~~October 6~~ ^{October 20}, 1994

RE: IGA's Between MCSO and Other Agencies for Aircraft Use

I. Recommendation/Action Requested:

Request commitment from the Board to approve this IGA.

II. Background/Analysis:

MCSO currently owns and operates a single engine aircraft, which is used for law enforcement aerial surveillance. Under these four IGA's (contract #'s 800475, 800485, 800495, 800505), MCSO will provide aerial surveillance services for Gresham, Washington County, METRO, and ROCN.

III. Financial Impact:

MCSO will charge each agency \$40.00 per hour for aerial surveillance services. ROCN, due to a prior agreement, will be entitled to 46.5 hours of service at no charge; thereafter ROCN will pay the \$40.00 rate.

IV. Legal Issues:

Standard IGA indemnification issues regarding liability of employees acting within the scope of their employment. All passengers remain employees of their respective agencies.

V. Controversial Issues:

None noted.

VI. Link to Current County Policies:

Fosters intergovernmental cooperation.

VII. Citizen Participation:

None.

VIII. Other Government Participation:

City of Gresham, Washington County, METRO, and ROCN.



CONTRACT APPROVAL FORM

(See Administrative Procedure #2106)

MULTNOMAH COUNTY OREGON

Contract # 800485
Amendment # _____

<p>CLASS I</p> <input type="checkbox"/> Professional Services under \$25,000	<p>CLASS II</p> <input type="checkbox"/> Professional Services over \$25,000 (RFP, Exemption) <input type="checkbox"/> PCRB Contract <input type="checkbox"/> Maintenance Agreement <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Construction <input type="checkbox"/> Grant <input type="checkbox"/> Revenue	<p>CLASS III</p> <input checked="" type="checkbox"/> Intergovernmental Agreement <p>APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS AGENDA # <u>R-6</u> DATE <u>10/27/94</u> <u>DEB BOGSTAD</u> BOARD CLERK</p>
-------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Department Sheriff's Office Division Enforcement Date September 16, 1994

Contract Originator Capt. F.L. "Bud" Johnson Phone 251-2425 Bldg/Room 313/

Administrative Contact Larry Aab Phone 251-2489 Bldg/Room 313/231

Description of Contract To allow Metro the use of the County's law enforcement aircraft and personnel for aerial surveillance services.

RFP/BID # _____ Date of RFP/BID _____ Exemption Exp. Date _____

ORS/AR # _____ Contractor is MBE WBE ORF

Contractor Name Metro
Mailing Address 600 NE Grand Ave
Portland, OR 97232-2736
Phone _____
Employer ID# or SS# _____
Effective Date upon completion
Termination Date NA
Original Contract Amount \$ 40.00 per hour
Total Amount of Previous Amendments \$ _____
Amount of Amendment \$ _____
Total Amount of Agreement \$ _____

Remittance Address _____
(If Different) _____

Payment Schedule _____ Terms _____

Lump Sum \$ _____ Due on receipt
 Monthly \$ _____ Net 30
 Other \$ as billed Other _____

Requirements contract - Requisition required.
Purchase Order No. _____
 Requirements Not to Exceed \$ _____

REQUIRED SIGNATURES:
Department Manager [Signature]
Purchasing Director (Class II Contracts Only) [Signature]
County Counsel [Signature]
County Chair / Sheriff [Signature]
Contract Administration (Class I, Class II Contracts Only) [Signature]

Encumber: Yes No
Date September 16, 1994
Date _____
Date 10-13-94
Date October 27, 1994
Date _____

VENDOR CODE			VENDOR NAME							TOTAL AMOUNT \$		
LINE NO.	FUND	AGENCY	ORGANIZATION	SUB ORG	ACTIVITY	OBJECT/REV SRC	SUB OBJ	REPT CATEG	LGFS DESCRIPTION	AMOUNT	INC/DEC IND	
01.	180	025	3120			4117						
02.												
03.												

* If additional space is needed, attach separate page. Write contract # on top of page.

INSTRUCTIONS ON REVERSE SIDE

INTERGOVERNMENTAL AGREEMENT

1
2
3 THIS AGREEMENT is made and entered into pursuant to the
4 authority found in ORS 190.010 et seq. and ORS 206.345 between
5 the Multnomah County Sheriff's Office ("MCSO"), jointly with and
6 on behalf of Multnomah County ("COUNTY"), and METRO, a
7 metropolitan service district. MCSO, COUNTY and METRO will be
8 referred to collectively as the "parties."

9 WHEREAS, Multnomah County is a political subdivision of the
10 State of Oregon and is a unit of local government authorized to
11 enter into intergovernmental agreements pursuant to the
12 provisions of ORS 190.010, et seq.; and

13 WHEREAS, the Multnomah County Sheriff is authorized to enter
14 into intergovernmental agreements jointly with and on behalf of
15 the County, pursuant to the provisions of ORS 206.345; and

16 WHEREAS, METRO is a municipal corporation formed and
17 operating under the laws of the State of Oregon and the 1992
18 METRO Charter, and is a unit of local government authorized to
19 enter into intergovernmental agreements pursuant to the
20 provisions of ORS 190.010, et seq.; and

21 WHEREAS, it is the policy of MCSO to assist other law
22 enforcement agencies and public bodies in the performance of
23 their lawful duties; and

24 WHEREAS, METRO desires to contract with the COUNTY for the
25 use of the COUNTY's law enforcement aircraft and personnel for
26 certain law enforcement related services required by METRO; and
27

1 WHEREAS, the COUNTY through MCSO is able and prepared to
2 provide the services required by METRO under those terms and
3 conditions set forth; therefore,

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

7 **AIRCRAFT RENTAL**

- 8 1. MCSO agrees to provide aerial surveillance services as
9 required by METRO.
- 10 2. METRO agrees to pay to MCSO the rate of \$40.00 per hour for
11 use of the COUNTY's aircraft under this agreement. METRO
12 further agrees to make a good faith effort to provide MCSO
13 with not less than 24 hours advance notice of the need for
14 aircraft services under this agreement.

15 **OTHER TERMS AND CONDITIONS**

- 16 3. The parties agree that there will be at least one designated
17 MCSO pilot [hereinafter, "ASSIGNED PERSONNEL"] on each METRO
18 flight under this agreement. The parties further agree that
19 during each METRO flight under this agreement, the ASSIGNED
20 PERSONNEL are and shall remain employees of, or an
21 independent contractor of, Multnomah County at all times and
22 for all purposes.
- 23 4. The parties agree that on all flights performed under this
24 agreement the designated MCSO pilot shall have final
25 approving authority for any operation of the aircraft. The
26 parties agree that the designated MCSO pilot shall not be
27

1 required to operate the aircraft if the pilot believes the
2 flight cannot be made safely, would exceed the capabilities
3 of the aircraft or personnel operating the aircraft, or
4 would violate federal aviation regulations.

5 5. The parties agree that any passenger accompanying the
6 designated pilot on a METRO flight under this agreement
7 shall remain an employee of the passenger's employer at all
8 times and for all purposes.

9 6. The parties agree that METRO does not assume any liability
10 for the direct payment of any wages, salaries or other
11 compensation to the ASSIGNED PERSONNEL or independent
12 contractor performing services under this agreement or for
13 any other liability not provided for in this agreement.

14 7. The COUNTY agrees to maintain workers' compensation
15 insurance coverage for its ASSIGNED PERSONNEL, excluding
16 independent contractors, either as a carrier insured
17 employer or a self-insured employer as provided in ORS
18 chapter 656.

19 8. The parties agree that matters concerning direct or indirect
20 monetary benefits, hours, vacations, sick leave, grievance
21 procedures and other conditions of employment regarding
22 ASSIGNED PERSONNEL under this agreement shall be governed by
23 the provisions of existing collective bargaining agreements
24 between the ASSIGNED PERSONNEL's bargaining unit and their
25 public employer.
26
27

1 9. The parties agree that all labor disputes arising out of
2 this agreement shall be governed by the provisions of
3 applicable collective bargaining agreements in effect during
4 this agreement, and the personnel rules of the COUNTY.

5 **INDEMNIFICATION AND LIABILITY**

6 10. Subject to the limitations of the Oregon Torts Claims Act
7 and the Oregon Constitution, MCSO and the COUNTY shall
8 indemnify, defend and hold harmless METRO, its officers,
9 employees and agents from all claims, suits, actions or
10 expenses of any nature resulting from or arising out of the
11 acts, errors or omissions of MCSO personnel acting pursuant
12 to the terms of this agreement.

13 11. In addition to the provisions of section 10 of this
14 agreement, the COUNTY agrees to maintain liability insurance
15 on the aircraft, designated pilots, and passengers.

16 12. Subject to the limitations of the Oregon Torts Claims Act
17 and the Oregon Constitution, METRO shall indemnify, defend
18 and hold harmless COUNTY and MCSO, their officers, employees
19 and agents from all claims, suits, actions or expenses of
20 any nature resulting from or arising out of the acts, errors
21 or omissions of METRO personnel acting pursuant to the terms
22 of this agreement.

23 **CONTRACT ADMINISTRATION**

24 13. MCSO designates Captain F.L. "Bud" Johnson, Enforcement
25 Operations Commander, to represent MCSO in all matters
26 pertaining to administration of this agreement.
27

1 14. METRO designates _____,
2 to represent METRO in all matters pertaining to
3 administration of this agreement.

4 15. Any notice or notices provided for by this agreement or by
5 law to be given or served upon either party shall be given
6 or served by certified letter, deposited in the U.S. mail,
7 postage prepaid, and addressed to:

8 Bob Skipper
9 Multnomah County Sheriff
10 12240 NE Glisan Street
11 Portland, OR 97230

Executive Officer
METRO
600 N.E. Grand Avenue
Portland, OR 97232-2736

12 **CONTRACT MODIFICATION AND TERMINATION**

13 16. This agreement shall be effective the date it is signed by
14 all the parties and shall remain in effect until June 30,
15 1995.

16 17. The parties agree that any party to this agreement may
17 terminate this agreement by giving the other party(s) not
18 less than 30 days written notice.

19 18. The parties agree that this agreement may be modified or
20 amended by mutual agreement of the parties. Any
21 modification to this agreement shall be effective only when
22 incorporated herein by written amendments and signed by both
23 METRO and the Multnomah County Sheriff, and approved by the
24 Multnomah County Board of Commissioners.

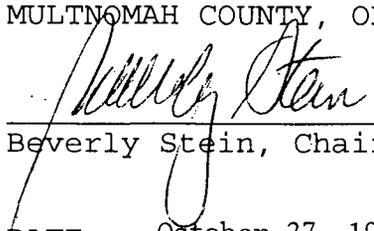
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IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly appointed officers on the date written below.

METRO

MULTNOMAH COUNTY, OREGON

Rena Cusma, Executive Officer



Beverly Stein, Chair

DATE: _____

DATE: October 27, 1994

Bob Skipper, Sheriff

DATE: _____

REVIEWED:
Lawrence Kressel
Multnomah County Counsel



By: Jacqueline Weber

DATE: 10-13-94

**APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS**
AGENDA # R-6 DATE 10/27/94
DEB BOGSTAD
BOARD CLERK

MEETING DATE OCT 27 1994

AGENDA NUMBER R-7

AGENDA PLACEMENT FORM

SUBJECT: Approving the Supplemental Budget

BOARD BRIEFING: Date Requested: _____

Amount of Time Needed: _____

UNUSUAL MEETING: Date Requested: October 27, 1994

Amount of Time Needed: 10 minutes

DEPARTMENT: Nondepartmental DIVISION Budget Office

CONTACT: Dave Warren TELEPHONE : 248-3822

BLDG/ROOM: 106/1400

PERSON(S) MAKING PRESENTATION: Brian Fowles and Budget staff

ACTION REQUESTED

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

The supplemental budget is to authorize the expenditure of \$542,000 of COP proceeds in the Telephone Fund for a voice mail system and to transfer \$441,744 to the Equipment Lease Purchase Fund for previously authorized purchase of Sheriff mobile data terminals inappropriately budgeted in the Capital Improvement Fund.

10/27/94 copies to Dave Warren

SIGNATURES REQUIRED:

ELECTED OFFICIAL: *Beverly Stein*

OR

DEPARTMENT MANAGER: _____

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-2222

BOARD OF
COUNTY COMMISSIONERS
MULTI-COUNTY
OREGON
1994 OCT 18 PM 4:06



MULTNOMAH COUNTY, OREGON

BOARD OF COUNTY COMMISSIONERS

BEVERLY STEIN
DAN SALTZMAN
GARY HANSEN
TANYA COLLIER
SHARRON KELLEY

PLANNING & BUDGET

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

TO: Board of County Commissioners
FROM: Dave Warren
DATE: October 11, 1994
REQUESTED PLACEMENT DATE: October 27, 1994
SUBJECT: Supplemental Budget

I. Recommendation/Action Requested:

I request that the Board approve for submittal to Tax Supervising the Supplemental Budget authorizing expenditure of \$542,000 of COP proceeds to buy a voice mail system, and transferring \$441,744 of carryover to the Equipment Lease/Purchase Fund from the Capital Improvement Fund.

II. Background / Analysis

In 1989, the County Telecommunications office installed a voice mail system for County users. The system has proved to be extremely popular and Telecommunications has expanded it four times (increasing memory and adding ports) to accommodate increased accounts. However, although Telecommunications has been attempting for the last year to expand it again, no further expansion is technologically possible and an increasing number of employees who have requested voice mail cannot be attached to the system.

III. Financial Impact:

The purchase of a new voice mail system was not anticipated when the budget was originally adopted. At that time, Telecommunications Services expected to deal with the increased volume of voice mail accounts by adding additional capacity to the existing system. As a result of this expectation, the 1994-95 Budget appropriates \$123,000 to buy an upgrade to the voice mail system. However, Northern Telecom, the manufacturer, has not provided an upgrade, but has instead developed a larger, compatible voice mail system which will accommodate the County's need for expansion. The supplemental budget authorizes the Telephone Fund to buy the larger voice mail system, and assumes that Certificates of Participation will be issued to cover the cost. The Certificates can be financed within the existing rate structure charged by the Telephone Fund for voice mail services so that no rate change is contemplated.

The 1994-95 Budget also authorizes \$441,744 to purchase mobile data terminals for Sheriff's vehicles. However, this authorization is appropriated in the Capital Improvement Fund. It ought to be part of the Equipment Lease/Purchase Fund. The supplemental budget changes the location of the appropriation and the revenues received from Certificates of Participation in 1993-94 and carried forward into 1994-95.

October 11, 1994

IV Legal Issues

ORS 294.480 establishes the parameters for supplemental budgets, and defines the basic supplemental budget processes.

The appropriation for buying the voice mail system depends on adding \$542,000 of revenue not anticipated in the adopted budget. This requires a supplemental budget.

The shift in appropriations between the Capital Improvement Fund and the Equipment Lease/Purchase Fund requires a transfer between special revenue funds. Such a transfer can only be approved during a fiscal year by means of a supplemental budget.

V. Controversial Issues

I do not know of any.

VI. Link to Current County Policies:

The issue of Certificates of Participation falls within the parameters established by Section C of the County's policy on Short-term and Long-Term Debt Financing. The annual payments will not exceed 5 percent of the revenues of the internal service funds. Existing annual capitalized lease/purchase repayments are budgeted at \$291,000. This action will increase the amount to approximately \$415,000. The total revenues in the internal service funds total \$45.5 million; 5 percent of these revenues would be \$2.2 million. The total revenues in the Telephone Fund are \$2.7 million; 5% of these revenues would be \$135,000. The annual lease purchase repayment will be approximately \$123,000.

The COP's will be issued for five years and the useful life of the equipment purchased will be approximately seven years. The equipment will allow almost a doubling of the number of users. This capacity should be adequate for the County, even given generous estimates of growth in the number of employees. However, it may not also be sufficient to accommodate major additional non-County users, such as the courts or the City of Portland.

VII. Citizen Participation

N/A

VIII. Other Government Participation:

N/A

SUPPLEMENTAL BUDGET



Multnomah County, Oregon

October 27, 1994

SUPPLEMENTAL BUDGET

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SUPPLEMENTAL BUDGET

SUPPLEMENTAL BUDGET MESSAGE

SUPPLEMENTAL BUDGET

Supplemental Budget Message

THE DOCUMENT

The document consists of three sections:

1. The budget message explaining the reasons for the changes proposed,
2. A section of detailed estimate sheets and descriptions for those actions resulting in changes in expenditures,
3. A financial summary showing the resources and requirements being changed by fund.

REASONS FOR CHANGES

A Supplemental Budget is the vehicle allowed by ORS 294.480 for the Board to deal with changes in financial conditions not determined at the time the budget was adopted. In cases where no fund's expenditures are increased by more than 10 percent of the adopted budget figure, the law allows the Board to make additional appropriations after advertising a hearing on the Supplemental Budget. However, this action increases two funds more than 10 percent of the adopted budget. As a result, the process for the supplemental budget action is to:

1. convene as the budget committee and approve the supplemental budget,
2. submit the approved supplemental budget to Tax Supervising,
3. attend a Tax Supervising hearing on the supplemental budget,
4. adopt the supplemental budget after Tax Supervising has certified that it is legal.

This 1994-95 Supplemental Budget is proposed to account for and authorize the expenditure of proceeds from the sale of Certificates of Participation (COP's).

One of the actions proposed is to record the proceeds from the sale of COP's to buy a voice mail system to install as part of the County telephone service. The 1994-95 Budget includes authorization to upgrade the existing system to accommodate more customers and an appropriation of \$123,000 to cover the estimated cost. However, Northern Telecom, the manufacturer of the system, does not provide further upgrades to the existing system. Instead, they provide a larger system to replace the current system. To move to the new system, the Telephone Fund (Fund 402) will record \$542,000 of COP proceeds, \$542,000 of capital outlay appropriations to buy the new system, and \$25,000 to make the first interest payment on the COP's. Because the proceeds from the sale of COP's are more than 10% of the \$2.7 million budget for the Telephone Fund, the Board must adopt a supplemental budget to allow the purchase to be made.

The second action proposed is to transfer the proceeds from the sale of COP's to the Equipment Lease Purchase Fund (Fund 235) from the Capital Improvement Fund (Fund 240) for the purchase of mobile data terminals for the Sheriff. When we created the Equipment Lease Purchase Fund, we failed to transfer the equipment purchase to it. This action is technical only, since the Board already approved the purchase and the issuance of the COP's to fund it. Placing it in the proper fund will make tracking easier. If a supplemental budget had not been necessary for other reasons, this action would not be proposed.

SUPPLEMENTAL BUDGET

Descriptions and Detail Estimate Sheets

SUPPLEMENTAL BUDGET

Telecommunications

Environmental Services

In 1989, the County Telecommunications office installed a voice mail system for County users. The system has proved to be extremely popular and Telecommunications has expanded it four times to accommodate increased accounts. However, although Telecommunications has been attempting for the last year to expand it again, no further expansion is technologically possible. An increasing number of employees who have requested voice mail cannot be attached to the system.

The purchase of the voice mail system was not anticipated when the budget was originally adopted. At that time, Telecommunications Services expected to deal with the increased volume of voice mail accounts by adding additional capacity to the existing system. As a result of this expectation, the 1994-95 Budget appropriates \$123,000 to buy an upgrade to the voice mail system. However, Northern Telecom, the manufacturer, has not provided an upgrade, but has developed a larger, compatible voice mail system which will accommodate the County's need for expansion. The supplemental budget authorizes the Telephone Fund to buy the larger voice mail system, and assumes that Certificates of Participation will be issued to cover the cost. The Certificates can be financed within the existing rate structure charged by the Telephone Fund for voice mail services so that no rate change is contemplated.

This action appropriates \$542,000 to capital outlay for the purchase of the system. An interest payment of \$25,000 is also appropriated. The budgeted \$123,000 for the voice mail upgrade is deleted. The Telephone Fund Contingency account is increased by \$98,000.

SUPPLEMENTAL BUDGET

Telecommunications

Environmental Services

OBJECT DETAIL	Current Budget	THIS ACTION	Revised Budget
5100 PERMANENT	239,269		239,269
5200 TEMPORARY	0		0
5300 OVERTIME	4,033		4,033
5400 PREMIUM PAY	0		0
5500 FRINGE	61,472		61,472
DIRECT PERSONAL SERVICES	304,774	0	304,774
5550 INS BENEFITS	37,681		37,681
TOTAL PERSONAL SERVICES	342,455	0	342,455
6050 COUNTY SUPPLEMENTS	0		0
6060 PASS THROUGH PAYMENTS	0		0
6110 PROFESSIONAL SERVICES	0		0
6120 PRINTING	11,937		11,937
6130 UTILITIES	0		0
6140 COMMUNICATIONS	877,545		877,545
6170 RENTALS	30,840		30,840
6180 REPAIRS & MAINTENANCE	4,900		4,900
6190 MAINTENANCE CONTRACTS	586,902		586,902
6200 POSTAGE	0		0
6230 SUPPLIES	11,968		11,968
6270 FOOD	0		0
6310 EDUCATION & TRAINING	7,392		7,392
6320 CONFERENCES & CONVENTIONS	1,996		1,996
6330 TRAVEL	100		100
6520 INSURANCE	0		0
6530 EXTERNAL D.P.	0		0
6550 DRUGS	0		0
6580 CLAIMS PAID/JUDGEMENTS	0		0
6610 AWARDS & PREMIUMS	0		0
6620 DUES & SUBSCRIPTIONS	437		437
7810 DEBT RETIREMENT	0		0
7820 INTEREST	0	25,000	25,000
DIRECT MATERIALS AND SERVICES	1,534,017	25,000	1,559,017
7100 INDIRECT COSTS	82,870		82,870
7150 TELEPHONE	0		0
7200 DATA PROCESSING	89,992		89,992
7300 MOTOR POOL	4,325		4,325
7400 BUILDING MANAGEMENT	51,398		51,398
7500 OTHER INTERNAL SERVICES	0		0
7550 LEASE PAYMENTS TO C.L.R.F.	0		0
7560 MAIL/DISTRIBUTION	2,329		2,329
INTERNAL SERVICE REIMBURSEMENTS	230,914	0	230,914
TOTAL MATERIALS AND SERVICES	1,764,931	25,000	1,789,931
8100 LAND	0		0
8200 BUILDINGS	0		0
8300 OTHER IMPROVEMENTS	0		0
8400 EQUIPMENT	379,707	419,000	798,707
TOTAL CAPITAL OUTLAY	379,707	419,000	798,707
TOTAL DIRECT BUDGET	2,218,498	444,000	2,662,498
TOTAL EXPENDITURES	2,487,093	444,000	2,931,093

SUPPLEMENTAL BUDGET

Capital Improvement Fund

Environmental Services

The Capital Improvement Fund, as adopted in the 1994-95 budget, shows the purchase of \$441,744 of mobile data terminals for the Sheriff's Office. This action transfers that appropriation to the Equipment Lease/Purchase Fund. The Equipment Lease/Purchase Fund was created for the 1994-95 budget year to record capital lease/purchase arrangements for equipment. Transferring the purchase of the mobile data terminals to this fund will make accounting for them consistent with other equipment purchases and will restrict transactions in the Capital Improvement Fund to work done on County facilities.

SUPPLEMENTAL BUDGET

Capital Improvement Fund

Environmental Services

OBJECT DETAIL	Current Budget	THIS ACTION	Revised Budget
5100 PERMANENT	0		0
5200 TEMPORARY	0		0
5300 OVERTIME	0		0
5400 PREMIUM PAY	0		0
5500 FRINGE	0		0
DIRECT PERSONAL SERVICES	0	0	0
5550 INS BENEFITS	0		0
TOTAL PERSONAL SERVICES	0	0	0
6050 COUNTY SUPPLEMENTS	200,000		200,000
6060 PASS THROUGH PAYMENTS	0		0
6110 PROFESSIONAL SERVICES	300,000		300,000
6120 PRINTING	0		0
6130 UTILITIES	0		0
6140 COMMUNICATIONS	0		0
6170 RENTALS	0		0
6180 REPAIRS & MAINTENANCE	0		0
6190 MAINTENANCE CONTRACTS	0		0
6200 POSTAGE	0		0
6230 SUPPLIES	0		0
6270 FOOD	0		0
6310 EDUCATION & TRAINING	2,148		2,148
6320 CONFERENCES & CONVENTIONS	0		0
6330 TRAVEL	0		0
6520 INSURANCE	0		0
6530 EXTERNAL D.P.	50,000		50,000
6550 DRUGS	0		0
6580 CLAIMS PAID/JUDGEMENTS	0		0
6610 AWARDS & PREMIUMS	0		0
6620 DUES & SUBSCRIPTIONS	0		0
7810 DEBT RETIREMENT	0		0
7820 INTEREST	0		0
DIRECT MATERIALS AND SERVICES	552,148	0	552,148
7100 INDIRECT COSTS	0		0
7150 TELEPHONE	0		0
7200 DATA PROCESSING	0		0
7300 MOTOR POOL	0		0
7400 BUILDING MANAGEMENT	61,161		61,161
7500 OTHER INTERNAL SERVICES	0		0
7550 LEASE PAYMENTS TO C.L.R.F.	0		0
7560 MAIL/DISTRIBUTION	0		0
INTERNAL SERVICE REIMBURSEMENTS	61,161	0	61,161
TOTAL MATERIALS AND SERVICES	613,309	0	613,309
8100 LAND	0		0
8200 BUILDINGS	4,720,794		4,720,794
8300 OTHER IMPROVEMENTS	67,500		67,500
8400 EQUIPMENT	441,744	(441,744)	0
TOTAL CAPITAL OUTLAY	5,230,038	(441,744)	4,788,294
TOTAL DIRECT BUDGET	5,782,186	(441,744)	5,340,442
TOTAL EXPENDITURES	5,843,347	(441,744)	5,401,603

SUPPLEMENTAL BUDGET

Equipment Lease/Purchase Fund

Nondepartmental

This action transfers \$441,744 appropriated for mobile data terminals for the Sheriff's Office to the Equipment Lease/Purchase Fund. The Equipment Lease/Purchase Fund was created for the 1994-95 budget year to record capital lease/purchase arrangements for equipment. The mobile data terminal purchase was authorized in the 1993-94 budget and the COP's to finance the purchase were issued in 1993-94. Transferring the appropriation for purchase of the mobile data terminals to this fund will make accounting for them consistent with other equipment purchases.

SUPPLEMENTAL BUDGET

Equipment Lease/Purchase

Nondepartmental

OBJECT DETAIL	Current Budget	THIS ACTION	Revised Budget
5100 PERMANENT	0		0
5200 TEMPORARY	0		0
5300 OVERTIME	0		0
5400 PREMIUM PAY	0		0
5500 FRINGE	0		0
DIRECT PERSONAL SERVICES	0	0	0
5550 INS BENEFITS	0		0
TOTAL PERSONAL SERVICES	0	0	0
6050 COUNTY SUPPLEMENTS	0		0
6060 PASS THROUGH PAYMENTS	0		0
6110 PROFESSIONAL SERVICES	18,525		18,525
6120 PRINTING	0		0
6130 UTILITIES	0		0
6140 COMMUNICATIONS	0		0
6170 RENTALS	0		0
6180 REPAIRS & MAINTENANCE	0		0
6190 MAINTENANCE CONTRACTS	0		0
6200 POSTAGE	0		0
6230 SUPPLIES	0		0
6270 FOOD	0		0
6310 EDUCATION & TRAINING	0		0
6320 CONFERENCES & CONVENTIONS	0		0
6330 TRAVEL	0		0
6520 INSURANCE	0		0
6530 EXTERNAL D.P.	0		0
6550 DRUGS	0		0
6580 CLAIMS PAID/JUDGEMENTS	0		0
6610 AWARDS & PREMIUMS	0		0
6620 DUES & SUBSCRIPTIONS	0		0
7810 DEBT RETIREMENT	0		0
7820 INTEREST	0		0
DIRECT MATERIALS AND SERVICES	18,525	0	18,525
7100 INDIRECT COSTS	0		0
7150 TELEPHONE	0		0
7200 DATA PROCESSING	0		0
7300 MOTOR POOL	0		0
7400 BUILDING MANAGEMENT	0		0
7500 OTHER INTERNAL SERVICES	0		0
7550 LEASE PAYMENTS TO C.L.R.F.	0		0
7560 MAIL/DISTRIBUTION	0		0
INTERNAL SERVICE REIMBURSEMENTS	0	0	0
TOTAL MATERIALS AND SERVICES	18,525	0	18,525
8100 LAND	0		0
8200 BUILDINGS	0		0
8300 OTHER IMPROVEMENTS	0		0
8400 EQUIPMENT	1,564,495	441,744	2,006,239
TOTAL CAPITAL OUTLAY	1,564,495	441,744	2,006,239
TOTAL DIRECT BUDGET	1,583,020	441,744	2,024,764
TOTAL EXPENDITURES	1,583,020	441,744	2,024,764

SUPPLEMENTAL BUDGET

Financial Summary

SUPPLEMENTAL BUDGET

FINANCIAL SUMMARY

FUND 234 EQUIPMENT LEASE/PURCHASE FUND

<i>Resource Description</i>	1994-95 Current	This Action	1994-95 Revised
050 Nondepartmental			
7740 Certificate Proceeds	1,583,020	0	1,583,020
76 Transfer from Capital Improvement Fd	0	441,744	441,744
TOTAL RESOURCES - FUND 234	1,583,020	441,744	2,024,764

<i>Requirements Summary</i>	1994-95 Current	This Action	1994-95 Revised
EXPENDITURES			
050 Nondepartmental			
Materials & Services	18,525	0	18,525
Capital Outlay	1,564,495	441,744	2,006,239
Total Nondepartmental	1,583,020	441,744	2,024,764
TOTAL EXPENDITURES	1,583,020	441,744	2,024,764
TOTAL REQUIREMENTS - FUND 234	1,583,020	441,744	2,024,764

SUPPLEMENTAL BUDGET

FINANCIAL SUMMARY

FUND 240 CAPITAL IMPROVEMENT FUND

<i>Resource Description</i>	1994-95 Current	This Action	1994-95 Revised
030 Beginning Working Capital	1,871,892	0	1,871,892
Intergovernmental Revenues	215,715	0	215,715
Service Charges	40,000	0	40,000
Interest	41,650	0	41,650
Other Revenue Sources	354,950	0	354,950
Financing Sources	3,860,032	0	3,860,032
TOTAL RESOURCES - FUND 240	6,384,239	0	6,384,239

<i>Requirements Summary</i>	1994-95 Current	This Action	1994-95 Revised
EXPENDITURES			
030 Environmental Services			
Personal Services	351,987	0	351,987
Materials & Services	650,034	0	650,034
Capital Outlay	<u>5,230,038</u>	<u>(441,744)</u>	<u>4,788,294</u>
Total Expenditures	<u>6,232,059</u>	<u>(441,744)</u>	<u>5,790,315</u>
Cash Transfer to Equipment Lease / Purchase			
Fund	0	441,744	441,744
Contingency	152,180	0	152,180
TOTAL REQUIREMENTS - FUND 240	6,384,239	0	6,384,239

SUPPLEMENTAL BUDGET

FINANCIAL SUMMARY

FUND 402 TELEPHONE FUND

<i>Resource Description</i>	Current	This Action	Revised
030 Environmental Services			
Beginning Working Capital	295,498	0	295,498
Service Charges	298,760	0	298,760
Interest	15,570	0	15,570
Other Revenue Sources	2,117,621	0	2,117,621
Financing Sources			
7740 Certificate Proceeds	0	542,000	542,000
TOTAL RESOURCES - FUND 402	2,727,449	542,000	3,269,449

<i>Requirements Summary</i>	Current	This Action	Revised
EXPENDITURES			
030 Environmental Services			
Personal Services	342,455	0	342,455
Materials & Services	1,764,931	25,000	1,789,931
Capital Outlay	379,707	419,000	798,707
Total	2,487,093	444,000	2,931,093
Contingency	240,356	98,000	338,356
TOTAL REQUIREMENTS - FUND 402	2,727,449	542,000	3,269,449

MEETING DATE: OCT 27 1994

AGENDA NO: R-8

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: PCRB Exemption for Telecommunications T-1 Lines Service

BOARD BRIEFING Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: Thursday, October 20, 1994

Amount of Time Needed: 15 MINUTES

DEPARTMENT: DES DIVISION: Purchasing/Telephone Office

CONTACT: Lillie Walker/Brian Fowles TELEPHONE #: 248-5111/248-5300

BLDG/ROOM #: 421/1st / 161/MEZZ

PERSON(S) MAKING PRESENTATION: Lillie Walker

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

Request of Board of County Commissioners, acting as PCRB, for an exemption to contract with Electric Light Wave for the purchase of Telecommunications T-1 lines Service.

10/20/94 NOTICE & APPLICATION TO PCRB list, Lillie Walker & Brian Fowles

SIGNATURE REQUIRED:

10/27/94 Notice & ORDER TO PCRB list, Lillie Walker &

ELECTED OFFICIAL: Brian Fowles

OR

DEPARTMENT MANAGER: 

BOARD OF COUNTY COMMISSIONERS
MULTI-COUNTY BOARD OF COMMISSIONERS
1994 OCT 18 PM 4:06
CLATSOP COUNTY

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES
Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

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

TO: BOARD OF COUNTY COMMISSIONERS

FROM: Lillie Walker, Purchasing Director

TODAY'S DATE: October 6, 1994

REQUESTED PLACEMENT DATE: October 20, 1994

RE: Exemption request from formal competitive bid process for the Department of Environmental Services, Telephone Office to fund the service of Telecommunications T-1 lines.

I. RECOMMENDATION: The DES requests a PCRB Exemption from the Competitive Bidding Process to contract with Electric Light Wave for the provision of Telecommunications T-1 line services.

II. Background/Analysis: Over the last four years, we have begun using T-1 lines to connect the PBX's in our telephone network. T-1 lines, which are digital, have replaced TIE lines which previously connected the PBX's which are analog. The digital connection is required to provide Voice Mail services to County Offices. Approximately 2 years ago we were able to obtain competitive quotes for this service to some locations from a company named Electric Light Wave. Previously these lines were only available through USWEST or GTE depending on whose franchised service territory we needed service in. These lines cost from \$2,300 to \$4,700 per year depending on the location. Quotes were obtained as needed, separately, on an informal basis since they cost less than \$10,000 per year. We have acquired 8 lines in this manner from Electric Light Wave, and the annual cost for ongoing service with these lines for FY 94/95 is \$27,843.40. We now need to reissue purchase orders for FY 94/95 and since the total will exceed \$10,000, we are requesting an exemption from bidding for these lines for the following reasons:

1. Each line was acquired through quotes on an informal basis and included one time installation charges that averaged \$600 per line. Re-bidding and awarding these lines to a different vendor would incur additional significant installation costs. There are also installation charges incurred by our maintenance vendor to disconnect the old lines and connect the new lines to the PBX's, at least \$150 per line.
2. Some lines were quoted and awarded for a three year contract, that has yet to expire.
3. Some lines were installed at locations that already had T-1 lines from a competitor to Electric Light Wave (USWEST). These lines from Electric Light Wave provide us redundancy in our network in case of a service interruption effecting the other service provider.

4. There is no reason to believe that the outcome of a formal bid would be any different than the informal quotes, as Electric Light Wave has been low bidder in every case.

We are requesting the exemption for a five (5) year period since it will always be in the County's best interest to select the vendor that will provide us the greatest redundancy in our voice and data networks.

III. Financial Impact: The current annual cost for this service is \$27,843.

IV. Legal Issues:

There are no legal issues anticipated.

V. Controversial Issues:

N/A

VI. Link to Current County Policies:

Current County policies require a competitive process for the purchase of telephone services that exceed \$1,000.00.

VII. Other Government Participation: The resulting contract will be open to other county departments and other government agencies.



MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES
INFORMATION SERVICES DIVISION
TELECOMMUNICATIONS SECTION
421 S.W. 5TH AVE., MEZZ.
PORTLAND, OREGON 97204
(503) 248-3100 FAX (503) 248-3200

BEVERLY STEIN
COUNTY CHAIR

MEMORANDUM

TO: Lillie Walker
Purchasing Director

FROM: Betsy Williams, Director
Department of Environmental Services

SUBJECT: Request for Exemption from Bid Process

DATE: August 26, 1994

Betsy Williams

*Elec
light
wave
piece*

Date Action is Needed: ASAP, purchase orders expired 6/30/94.

BACKGROUND

Over the last four years, we have begun using T-1 lines to connect the PBX's in our telephone network. T-1 lines, which are digital, have replaced TIE lines which previously connected the PBX's, which are analog. The digital connection is required to provide Voice Mail services to County Offices. Approximately 2 years ago we were able to obtain competitive quotes for this service to some locations from a company named Electric Lightwave. Previously these lines were only available through USWEST or GTE depending on whose franchised service territory we needed service in. These lines cost from \$2,300 to \$4,700 per year depending on the location. Quotes were obtained as needed, separately, on an informal basis since they cost less than \$10,000 per year. We have acquired 8 lines in this manner from Electric Lightwave, and the annual cost for ongoing service with these lines for FY 94/95 is \$27,843.40. We now need to reissue purchase orders for FY 94/95 and since the total will exceed \$10,000, we are requesting an exemption from bidding for these lines for the following reasons:

1. Each line was acquired through quotes on an informal basis and included one time installation charges that averaged \$600 per line. Re-bidding and awarding these lines to a different vendor would incur additional significant installation costs. There are also installation charges incurred by our maintenance vendor to disconnect the old lines and

connect the new lines to the PBX's, at least \$150 per line.

2. Some lines were quoted and awarded for a three year contract, that has yet to expire.
3. Some lines were installed at locations that already had T-1 lines from a competitor to Electric Lightwave (USWEST). These lines from Electric Lightwave provide us redundancy in our network in case of a service interruption effecting the other service provider.
4. There is no reason to believe that the outcome of a formal bid would be any different than the informal quotes, as Electric Lightwave has been low bidder in every case.

We are requesting the exemption for an indefinite period since it will always be in the County's best interest to select the vendor that will provide us the greatest redundancy in our voice and data networks.

FINDINGS OF FACT

This exemption is requested under AR 30.010 through 30.040.

CONCLUSIONS

This request for exemption from bidding is made for the reasons outlined above. In addition, it does not appear there would be any cost savings to the County to warrant the expense of bidding. At this time the only vendors offering this service are Electric Lightwave in some areas of the County, and USWEST and GTE in their respective franchised service areas.



MULTNOMAH COUNTY OREGON

OFFICE OF THE BOARD CLERK
SUITE 1510, PORTLAND BUILDING
1120 S.W. FIFTH AVENUE
PORTLAND, OREGON 97204

BOARD OF COUNTY COMMISSIONERS

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TANYA COLLIER •	DISTRICT 3	• 248-5217
SHARRON KELLEY •	DISTRICT 4	• 248-5213
CLERK'S OFFICE •	248-3277	• 248-5222

NOTICE OF HEARING

The Multnomah County Board of Commissioners, sitting as the Public Contract Review Board, will consider an application on Thursday, October 27, 1994, at 9:30 a.m. in Room 602 of the Multnomah County Courthouse, 1021 SW Fourth, Portland, Oregon, in the Matter of Exempting from Public Bidding a Contract with Electric Light Wave for the Provision of Telecommunications T-1 Service.

A copy of the application is attached.

For additional information, please contact Multnomah County Purchasing and Central Stores Director Lillie Walker at 248-5111.

**BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON
PUBLIC CONTRACT REVIEW BOARD**

*Deborah L. Bogstad
Office of the Board Clerk*

*enclosure
cc: Lillie Walker
Brian Fowles*

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT REVIEW BOARD

In the Matter of Exempting From)
Public Bidding a contract with Electric)
Light Wave for the provision of)
Telecommunications T-1 Service.)

A P P L I C A T I O N

Application to the Public Contract Review Board on behalf of a request from the Department of Environmental Services (DES) is hereby made pursuant to the Board's Administrative Rule AR 10.140 and adopted under the provisions of ORS 279.015 for an order of exemption to contract telecommunications T-1 Line Service.

This Exemption Request is supported by to the following facts:

1. The attached memorandum from DES requests a PCRB exemption from the competitive bidding process to contract with Electric Light Wave for the provision of Telecommunications T-1 Line Service. These lines are needed to meet the County's needs for telecommunication and redundancy of services.
2. The cost to the County for the current fiscal year is \$27,843 and is the only cost effective way to achieve redundancy.
3. Formal competitive bidding for this item is not feasible because Electric Light Wave has been awarded the installation of these lines under the informal competitive process and they are the only provider for ongoing services of these lines. Competition has not been inhibited because informal quotes were gathered and electric Light Wave was the low quote.
4. This exemption is for a five year period.
5. The Purchasing and Central Stores Section has reviewed the information provided by DES and found that it is compatible with proper purchasing procedures.
6. The Purchasing Section recommends approval of the requested exemption.

Dated this 19 day of October, 1994.



For Lillie Walker, Director
Purchasing, Contracts, and Central Stores

Attachments



MULTNOMAH COUNTY OREGON

OFFICE OF THE BOARD CLERK
SUITE 1510, PORTLAND BUILDING
1120 S.W. FIFTH AVENUE
PORTLAND, OREGON 97204

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TANYA COLLIER •	DISTRICT 3 •	248-5217
SHARRON KELLEY •	DISTRICT 4 •	248-5213
CLERK'S OFFICE •	248-3277 •	248-5222

NOTICE OF APPROVAL

The Multnomah County Board of Commissioners, sitting as the Public Contract Review Board, considered an application on Thursday, October 27, 1994, at 9:30 a.m. in Room 602 of the Multnomah County Courthouse, 1021 SW Fourth, Portland, Oregon, and approved Order 94-208 in the Matter of Exempting from Public Bidding a Contract with Electric Light Wave for the Provision of Telecommunications T-1 Service.

A copy of the Order is attached.

**BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON
PUBLIC CONTRACT REVIEW BOARD**

*Deborah Bogstad
Office of the Board Clerk*

enclosure

*cc: Lillie Walker
Brian Fowles*

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT REVIEW BOARD

In the Matter of Exempting from)
Public Bidding a contract with)
Electric Light Wave for the provision)
of Telecommunications T-1 Service)

ORDER
94-208

The above entitled matter is before the Board of County Commissioners, acting in its capacity as the Multnomah County Public Contract Review Board, to review, pursuant to ORS 279.015(3) (A) through (5) (B) and PCRB Rule 10.140, an exemption for the Department of Environmental Services (DES) to contract with Electric Light Wave for the provision of Telecommunications T-1 Line Service. The cost of this service is estimated to be \$27,843 annually..

It appearing to the Board that the request for exemption, as it appears in the order, is based upon the fact that it is needed to meet the County's needs for Telecommunication and redundancy of services.

It appearing to the Board that this exemption request is in accord with the requirements of ORS 279.015 and PCRB Rule AR 10.140; now therefore,

IT IS ORDERED that the purchase of T-1 Line Service be exempted from the requirement of formal competitive bid process.

Dated this 27th day of October, 1994.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT
REVIEW BOARD:

By Beverly Stein
Beverly Stein, County Chair

LAURENCE KRESSEL, County Counsel
for Multnomah County, Oregon

By Laurence Kressel
Assistant County Counsel

MEETING DATE: OCT 27 1994

AGENDA NO: R-9

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: PCRB Exemption for Telecommunications T-1 Lines and Service

BOARD BRIEFING Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: Thursday, October 20, 1994

Amount of Time Needed: 15 MINUTES

DEPARTMENT: DES DIVISION: Purchasing/Telephone Office

CONTACT: Lillie Walker/Brian Fowles TELEPHONE #: 248-5111/248-5300

BLDG/ROOM #: 421/1st / 161/MEZZ

PERSON(S) MAKING PRESENTATION: Lillie Walker

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

Request of Board of County Commissioners, acting as PCRB, for an exemption from the bidding process for the future purchase of Telecommunications T-1 lines and Service.
10/20/94 NOTICE & APPLICATION TO PERCLIST, LILLIE WALKER & BRIAN FOWLES

SIGNATURE REQUIRED:
10/27/94 NOTICE & ORDER TO PERCLIST, LILLIE WALKER & BRIAN FOWLES

ELECTED OFFICIAL: _____

OR

DEPARTMENT MANAGER: *Paul Boyer*

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES
Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

1994 OCT 19 AM 1:33
BOARD OF
COUNTY COMMISSIONERS
MULTI-COUNTY
OREGON

**AGENDA ITEM BRIEFING
STAFF REPORT SUPPLEMENT**

TO: BOARD OF COUNTY COMMISSIONERS

FROM: Lillie Walker, Purchasing Director

TODAY'S DATE: October 7, 1994

REQUESTED PLACEMENT DATE: October 20, 1994

RE: Exemption request from formal competitive bid process for the Department of Environmental Services to provide Telecommunications T-1 lines and service.

I. RECOMMENDATION: The DES requests a PCRB Exemption from the Competitive Bidding Process to contract for the future provision of T-1 line services and service.

II. Background/Analysis: This exemption request is for T-1 lines we will need to acquire in the future. Over the last four years, we have begun using T-1 lines to connect the PBX's in our telephone network. T-1 lines, which are digital, have replaced TIE lines, which are analog, that previously connected the PBX's. The digital connection is required to provide Voice Mail services to County Offices. T-1 lines are also significantly less expensive than TIE lines. Approximately 2 years ago we were able to obtain competitive bids for this service, to some locations, from a company named Electric Lightwave. Previously these lines were only available through USWEST or GTE depending on whose franchised service territory we needed service in.

The primary reason for obtaining T-1 circuits from other than the local operating telephone company (USWEST or GTE) is to provide redundancy for our voice and data networks. This redundancy needs to be in place to keep our systems operating from a single point of failure. A good example of what we are protecting against with this approach, happened on June 10, 1993 when work crews from Northwest Natural Gas accidentally, at the intersection of NE 47th and Flanders, cut cables from USWEST carrying all voice and data traffic to the Information Services Division at 4747 E Burnside. This led to a 17 hour service interruption, affecting most offices in the County. If we had service from another vendor besides USWEST, we would have been able to maintain critical services during this incident. Lines acquired from another vendor would have separate cable routes and entry points to the locations being serviced which could provide redundancy not just for cable cuts, but also in the case of an earthquake, fire or flood.

We are requesting this exemption for a period of 5 years as it will always be in the County's best interest to select the service provider that will provide us the greatest redundancy in our voice and data networks. We will continue to monitor this market and obtain quotes from new vendors of this service, if any enter this area. In FY 94/95 we will be significantly changing the configuration of the Voice network to provide better redundancy and disaster recovery capabilities. I anticipate these additional lines will cost \$15,000 to \$30,000 per year depending on the outcome of traffic studies and the continuing growth of call volume on the network.

III. Financial Impact: The cost is estimated at \$15,000 to \$30,000 per year.

IV. Legal Issues:

There are no legal issues anticipated.

V. Controversial Issues:

N/A

VI. Link to Current County Policies:

Current County policies require a competitive process for the purchase of telephone services that exceed \$1,000.00.

VII. Other Government Participation: The resulting contract will be open to other county departments and other government agencies.



MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES
INFORMATION SERVICES DIVISION
TELECOMMUNICATIONS SECTION
421 S.W. 5TH AVE., MEZZ.
PORTLAND, OREGON 97204
(503) 248-3100 FAX (503) 248-3200

BEVERLY STEIN
COUNTY CHAIR

MEMORANDUM

TO: Lillie Walker
Purchasing Director

FROM: Betsy Williams, Director *Betsy Williams*
Department of Environmental Services

SUBJECT: Request for Exemption from Bid Process

DATE: August 23, 1994

Date Action is Needed: ASAP, additional orders for this service need to be placed by 9/15/94.

BACKGROUND

This exemption request is for T-1 lines we will need to acquire in the future. Over the last four years, we have been using T-1 lines to connect the PBX's in our telephone network. T-1 lines, which are digital, have replaced TIE lines, which are analog, that previously connected the PBX's. The digital connection is required to provide Voice Mail services to County offices. T-1 lines are also significantly less expensive than TIE lines. Approximately 2 years ago we were able to obtain competitive bids for this service, to some locations, from a company named Electric Lightwave. Previously these lines were only available through USWEST or GTE depending on whose franchised service territory we needed service in.

The primary reason for obtaining T-1 circuits from other than the local operating telephone company (USWEST or GTE) is to provide redundancy for our voice and data networks. This redundancy needs to be in place to keep our systems operating from a single point of failure. A good example of what we are protecting against with this approach, happened on June 10, 1993 when work crews from Northwest Natural Gas accidentally, at the intersection of N.E. 47th and Flanders, cut cables from USWEST carrying all voice and data traffic to the Information Services Division at 4747 E. Burnside. This led to a 17 hour service interruption, affecting most offices in the County. If we had service from another vendor besides USWEST, we would have been able

to maintain critical services during this incident. Lines acquired from another vendor would have separate cable routes and entry points to the locations being serviced which could provide redundancy not just for cable cuts, but also in the case of an earthquake, fire or flood.

We are requesting this exemption for an indefinite period as it will always be in the County's best interest to select the service provider that will provide us the greatest redundancy in our voice and data networks. We will continue to monitor this market and obtain quotes from new vendors of this service, if any enter this area. In FY 94/95 we will be significantly changing the configuration of the Voice network to provide better redundancy and disaster recovery capabilities. I anticipate these additional lines will cost \$15,000 to \$30,000 per year depending on the outcome of traffic studies and the continuing growth of call volume on the network.

FINDINGS OF FACT

This exemption is requested under AR 30.010 through 30.040.

CONCLUSION

The request for exemption from bidding is made to provide the Information Services Division the flexibility to select the T-1 provider that can assure the highest level of redundancy for service to locations on the County's Voice and Data networks.



MULTNOMAH COUNTY OREGON

OFFICE OF THE BOARD CLERK
SUITE 1510, PORTLAND BUILDING
1120 S.W. FIFTH AVENUE
PORTLAND, OREGON 97204

BOARD OF COUNTY COMMISSIONERS

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DAN SALTZMAN •	DISTRICT 1 •	248-5220
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TANYA COLLIER •	DISTRICT 3 •	248-5217
SHARRON KELLEY •	DISTRICT 4 •	248-5213
CLERK'S OFFICE •	248-3277 •	248-5222

NOTICE OF HEARING

The Multnomah County Board of Commissioners, sitting as the Public Contract Review Board, will consider an application on Thursday, October 27, 1994, at 9:30 a.m. in Room 602 of the Multnomah County Courthouse, 1021 SW Fourth, Portland, Oregon, in the Matter of Exempting from Public Bidding the Purchase of T-1 Lines and Services.

A copy of the application is attached.

For additional information, please contact Multnomah County Purchasing and Central Stores Director Lillie Walker at 248-5111.

**BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON
PUBLIC CONTRACT REVIEW BOARD**



Deborah L. Bogstad
Office of the Board Clerk

enclosure
cc: Lillie Walker
Brian Fowles

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT REVIEW BOARD

In the Matter of Exempting From)
Public Bidding the purchase of T-1) APPLICATION
lines and services.)

Application to the Public Contract Review Board on behalf of a request from the Department of Environmental Services (DES) is hereby made pursuant to the Board's Administrative Rule AR 10.140 and adopted under the provisions of ORS 279.015 for an order of exemption from the bidding process for the future purchase of telecommunications T-1 line and service.

This Exemption Request is supported by the following facts:

1. The attached memorandum from DES requests a PCR B exemption from the competitive bidding process to purchase T-1 lines and service.
2. The cost to the County is estimated at \$15,000 to \$30,000 per year and is the only cost effective way to achieve disaster recovery redundancy.
3. Competitive bidding for this item is not always feasible because of the redundancy needed for disaster recovery. Competition is not inhibited because informal quotes will be gathered to determine the lowest cost redundant vendor..
4. This exemption is for a five year period.
5. The Purchasing and Central Stores Section has reviewed the information provided by DES and found that it is compatible with proper purchasing procedures.
6. The Purchasing Section recommends approval of the requested exemption.

Dated this 19 day of October, 1994.

For 
Lillie Walker, Director
Purchasing, Contracts, and Central Stores

Attachments



MULTNOMAH COUNTY OREGON

OFFICE OF THE BOARD CLERK
SUITE 1510, PORTLAND BUILDING
1120 S.W. FIFTH AVENUE
PORTLAND, OREGON 97204

BOARD OF COUNTY COMMISSIONERS

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NOTICE OF APPROVAL

The Multnomah County Board of Commissioners, sitting as the Public Contract Review Board, considered an application on Thursday, October 27, 1994, at 9:30 a.m. in Room 602 of the Multnomah County Courthouse, 1021 SW Fourth, Portland, Oregon, and approved Order 94-209 in the Matter of Exempting from Public Bidding the Purchase of T-1 Lines and Service.

A copy of the Order is attached.

**BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON
PUBLIC CONTRACT REVIEW BOARD**

*Deborah Bogstad
Office of the Board Clerk*

*enclosure
cc: Lillie Walker
Brian Fowles*

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT REVIEW BOARD

In the Matter of Exempting from)
Public Bidding the purchase of T-1) O R D E R
lines and service.) 94-209

The above entitled matter is before the Board of County Commissioners, acting in its capacity as the Multnomah County Public Contract Review Board, to review, pursuant to ORS 279.015(3) (A) through (5) (B) and PCRB Rule 10.140, an exemption for the Department of Environmental Services (DES) to purchase T-1 lines and service. The cost is estimated at \$15,000 to \$30,000 per year.

It appearing to the Board that the request for exemption, as it appears in the order, is based upon the fact that it is needed to meet the County's needs for Telecommunication and redundancy of Services for disaster recovery.

It appearing to the Board that this exemption request is in accord with the requirements of ORS 279.015 and PCRB Rule AR 10.140; now therefore,

IT IS ORDERED that the purchase of T-1 Line Service be exempted from the requirement of formal competitive bid process.

Dated this 27th day of October, 1994.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT
REVIEW BOARD:

By Beverly Stein
Beverly Stein, County Chair

LAURENCE KRESSEL, County Counsel
for Multnomah County, Oregon

By Laurence Kessel
Assistant County Counsel