

ANNOTATED MINUTES

Thursday, August 17, 2006 - 9:00 AM
Multnomah Building, First Floor Commissioners Conference Room 112
501 SE Hawthorne Boulevard, Portland

EXECUTIVE SESSION

Chair Diane Linn convened the meeting at 9:03 a.m., with Vice-Chair Lonnie Roberts and Commissioners Serena Cruz Walsh and Maria Rojo de Steffey present, and Commissioner Lisa Naito arriving at 9:15 a.m.

- E-1 The Multnomah County Board of Commissioners will meet in Executive Session Pursuant to ORS 192.660(2)(h). Only Representatives of the News Media and Designated Staff are allowed to attend. News Media and All Other Attendees are Specifically Directed Not to Disclose Information that is the Subject of the Session. No Final Decision will be made in the Session. Presented by Agnes Sowle. 15-30 MINUTES REQUESTED.

EXECUTIVE SESSION HELD.

There being no further business, the meeting was adjourned at 9:20 a.m.

Thursday, August 17, 2006 - 9:30 AM
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

REGULAR MEETING

Chair Diane Linn convened the meeting at 9:31 a.m., with Vice-Chair Lonnie Roberts and Commissioners Lisa Naito, Serena Cruz Walsh and Maria Rojo de Steffey present.

***CHAIR LINN ACKNOWLEDGED AND WELCOMED
LADDIE READ ATTENDING TODAY'S MEETING
AFTER RECOVERING FROM A SERIOUS
ILLNESS.***

CONSENT CALENDAR

**UPON MOTION OF COMMISSIONER ROBERTS,
SECONDED BY COMMISSIONER ROJO, THE
CONSENT CALENDAR (ITEMS C-1 THROUGH C-2)
WAS UNANIMOUSLY APPROVED.**

DEPARTMENT OF COUNTY MANAGEMENT

- C-1 Amendment 2 to Intergovernmental Expenditure Contract 4600003470 with the Oregon Bureau of Labor and Industries, Providing Continued Administrative Enforcement of Complaints Filed Under Multnomah County Code Chapters 15.340 to 15.347

DEPARTMENT OF COMMUNITY SERVICES

- C-2 Intergovernmental Revenue Agreement 0607046 with the City of Troutdale for Water Line Improvements in Connection with Multnomah County's Beaver Creek Bridge Rehabilitation Project

REGULAR AGENDA

PUBLIC COMMENT

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

**ANGIE MOORE AND AUBREY RUSSELL
COMMENTS IN OPPOSITION TO A PROPOSED
WARM SPRINGS TRIBE CASINO IN THE GORGE.
GEOFF THOMPSON AND ANGELO SIMIONE
COMMENTS AND REQUEST THAT
COMMISSIONERS AND CHAIR DIRECT LAND
USE PLANNING DIVISION TO SET A HEARING
ON THE VIEW POINT INN CONDITIONAL USE
APPLICATION 21 DAYS AFTER THE
APPLICATION IS DEEMED COMPLETE SO THEY
CAN BEGIN ADVERTISING AS SOON AS
POSSIBLE. CHAIR LINN STATED SHE SEES NO
REASON TO DRAG THINGS OUT AND WOULD BE
HAPPY TO EXPEDITE A HEARING AS LONG AS IT
CAN BE DONE FAIRLY.**

DEPARTMENT OF COUNTY HUMAN SERVICES

- R-1 Budget Modification DCHS-01 Reclassifying Four Positions in the Aging and Disabilities Services Division, as Determined by the Class/Comp Unit of Central Human Resources, as Part of a Reorganization of the Long Term Care Management Structure

COMMISSIONER ROJO MOVED AND COMMISSIONER CRUZ SECONDED, APPROVAL OF R-1. REX SURFACE AND MARY SHORTALL EXPLANATION. BUDGET MODIFICATION UNANIMOUSLY APPROVED.

- R-2 RESOLUTION Appointing Rex Surface, Patrice Botsford, and Karl Brimmer as County Financial Assistance Administrators for the State of Oregon Department of Human Services, 2005-2007 County Financial Assistance Intergovernmental Revenue Agreement 0506026 (State #113012)

COMMISSIONER CRUZ MOVED AND COMMISSIONER NAITO SECONDED, APPROVAL OF R-2. REX SURFACE EXPLANATION. RESOLUTION 06-145 UNANIMOUSLY ADOPTED.

DEPARTMENT OF HEALTH

- R-3 Budget Modification HD-01 Appropriating \$1,535,042 for the Homeless Mobile Clinic in the Health Department

COMMISSIONER CRUZ MOVED AND COMMISSIONER ROBERTS SECONDED, APPROVAL OF R-3. KIM TIERNEY EXPLANATION. COMMISSIONER CRUZ AND CHAIR LINN COMMENTS IN APPRECIATION FOR THE GREAT VAN AND THE EFFORTS OF STAFF. BUDGET MODIFICATION UNANIMOUSLY APPROVED.

- R-4 Budget Modification HD-02 Approving Five Program Supervisor Positions within the Health Service Clinics and Reclassifying Three Administrative Positions within the Department

COMMISSIONER CRUZ MOVED AND COMMISSIONER ROJO SECONDED, APPROVAL OF R-4. BOB SAUM EXPLANATION. BUDGET MODIFICATION UNANIMOUSLY APPROVED.

DEPARTMENT OF COUNTY MANAGEMENT

R-5 Reallocation of Facilities Capital Project Funds FPM-10, Building System
Emergency Repair Mini-Fund

**COMMISSIONER ROJO MOVED AND
COMMISSIONER ROBERTS SECONDED,
APPROVAL OF R-5. JOHN LINDENTHAL
EXPLANATION. REALLOCATION UNANIMOUSLY
APPROVED.**

R-6 RESOLUTION Approving 2006-2007 Cost of Living Adjustment (COLA)
for the Federation of Oregon Parole and Probation Officers (FOPPO)

**COMMISSIONER CRUZ MOVED AND
COMMISSIONER ROBERTS SECONDED,
APPROVAL OF R-6. REBECCA GABRIEL
INTRODUCTIONS AND EXPLANATION. STEVE
LIDAY AND BRENNAN MITCHELL COMMENTS
IN SUPPORT OF THE RESOLUTION AND IN
APPRECIATION FOR THE GOOD WORKING
RELATIONSHIP BETWEEN THE BARGAINING
TEAM. BRENNAN MITCHELL INTRODUCED
BARGAINING TEAM MEMBERS IN THE
AUDIENCE. MS. GABRIEL RESPONSE TO A
QUESTION OF COMMISSIONER CRUZ,
EXPLAINING A RESOLUTION IS NECESSARY AS
AN AUTOMATIC COST OF LIVING ADJUSTMENT
IS NOT BUILT INTO THIS LABOR CONTRACT.
CHAIR LINN COMMENTS IN APPRECIATION
FOR THE GOOD WORKING RELATIONSHIP OF
THE PARTIES. RESOLUTION 06-146
UNANIMOUSLY ADOPTED.**

DEPARTMENT OF COMMUNITY SERVICES

R-7 RESOLUTION Authorizing a Three-Month Closure of a Portion of Corbett
Hill Road to Conduct the Corbett Hill Viaduct Replacement Project

**COMMISSIONER ROJO MOVED AND
COMMISSIONER CRUZ SECONDED, APPROVAL
OF R-7. ROBERT MAESTRE EXPLANATION AND
RESPONSE TO COMMENTS OF COMMISSIONER**

ROBERTS. RESOLUTION 06-147 UNANIMOUSLY ADOPTED.

(Commissioner Roberts excused at 10:05 a.m.)

- R-8 Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by Howard Winters for \$3,000,000 in Compensation or Relief from Regulations to Allow a 31 Lot Subdivision on Property Located at 29446 E. Woodard Road [T1S, R4E, SEC 06A, TL 300; T1S, R4E, SEC 06B, TL 100 & 200; T1N, R4E, SEC 31C TL 800 & 900; T1N, R4E, SEC 31DC, TL 400] (Case File T1-06-008). Presented by Adam Barber and Sandra Duffy.

IT WAS NOTED THAT LAND USE PLANNING RECEIVED A REQUEST FROM THE REPRESENTATIVE FOR THE MEASURE 37 CLAIMANT, HOWARD WINTERS, TO POSTPONE THIS MATTER INDEFINITELY; AND THAT LAND USE PLANNING AND THE COUNTY ATTORNEY'S OFFICE HAVE NO OBJECTION TO THE POSTPONEMENT. UPON MOTION OF COMMISSIONER CRUZ, SECONDED BY COMMISSIONER ROJO, THE HEARING WAS POSTPONED INDEFINITELY, WITH COMMISSIONERS NAITO, CRUZ, ROJO AND LINN VOTING AYE.

- R-9 Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by Kent and June Meyer for \$300,000 in Compensation or Relief from Regulations to Allow a 3 Parcel Land Division on Property Located at 19544 NW Sauvie Island Road [T2N, R 1W, SEC 08, TL 1100] (Case File T1-06-009). Presented by Adam Barber and Sandra Duffy.

(Commissioner Roberts returned at 10:07 a.m.)

CHAIR LINN CONVENED THE HEARING, WITH COMMISSIONERS LISA NAITO, SERENA CRUZ WALSH, LONNIE ROBERTS AND MARIA ROJO DE STEFFEY PRESENT. AT CHAIR LINN'S REQUEST FOR DISCLOSURE, NO EX PARTE CONTACTS WERE REPORTED. AT CHAIR LINN'S REQUEST FOR DISCLOSURE, NO CONFLICTS OF INTEREST WERE REPORTED. AT CHAIR LINN'S REQUESTS FOR DISCLOSURE, NO BOARD MEMBER

DISCLOSED HAVING A FINANCIAL INTEREST IN THE OUTCOME OF THIS MATTER AND NO BOARD MEMBER DISCLOSED LIVING WITHIN THE GEOGRAPHICAL AREA ENTITLED TO NOTICE OF CLAIM. CHAIR LINN EXPLAINED THE CONDUCT OF HEARING, THE ORDER OF TESTIMONY AND HOW TO PRESENT TESTIMONY. ASSISTANT COUNTY ATTORNEY SANDRA DUFFY ADVISED THAT CLAIMANTS KENT AND JUNE MEYER ARE NOT ATTENDING TODAY'S HEARING. PLANNER ADAM BARBER PRESENTED THE STAFF REPORT AND RECOMMENDATIONS. STUART SANDLER AND CINDY REID TESTIMONY IN SUPPORT OF DENIAL, ADVISING APPROVAL WOULD NEGATIVELY AFFECT MR. SANDLER'S ROAD AND NEGATIVELY IMPACT THE SAUVIE ISLAND PROPERTY OWNERS. IN RESPONSE TO A QUESTION OF COMMISSIONER ROBERTS, MR. SANDLER AND MS. REID ADVISED THE ISLAND IS MOSTLY FARM LAND AND ZONED EXCLUSIVE FARM USE. THERE BEING NO FURTHER TESTIMONY AND NO FURTHER BOARD QUESTIONS OR DISCUSSION, COMMISSIONER CRUZ MOVED AND COMMISSIONER ROBERTS SECONDED, AN ORDER DENYING MEASURE 37 REQUEST OF KENT AND JUNE MEYER. COMMISSIONER NAITO AND CHAIR LINN COMMENTS IN SUPPORT OF STAFF RECOMMENDATION AND IN APPRECIATION FOR THE WORK OF STAFF. ORDER 06-148 DENYING MEASURE 37 REQUEST OF KENT AND JUNE MEYER RELATING TO REAL PROPERTY LOCATED AT 19544 NW SAUVIE ISLAND ROAD UNANIMOUSLY ADOPTED.

NON-DEPARTMENTAL

R-10 RESOLUTION Appointing Design Team Co-Chairs and Directing the Team to Begin the Planning Process for Multnomah County's Fiscal Year 2007-2008 Budget.

COMMISSIONER CRUZ MOVED AND COMMISSIONER ROJO SECONDED, APPROVAL OF R-10. COMMISSIONER CRUZ EXPLANATION. CHAIR LINN COMMENTS IN SUPPORT. RESOLUTION 06-149 UNANIMOUSLY ADOPTED.

R-11 Budget Modification DCHS 04 Appropriating \$57,882 County General Fund Contingency to Fund Program Offer 25072B - Bienestar Mental Health Services Scale

COMMISSIONER CRUZ MOVED AND COMMISSIONER ROJO SECONDED, APPROVAL OF R-11. COMMISSIONER CRUZ EXPLANATION AND COMMENTS IN SUPPORT. REX SURFACE EXPLANATION AND COMMENTS IN SUPPORT. GODWIN NWEREM PRESENT TO ANSWER ANY QUESTIONS. CHAIR LINN COMMENTS IN SUPPORT. BUDGET MODIFICATION UNANIMOUSLY APPROVED.

R-12 RESOLUTION Allocating \$384,841 of Contingency Funds to the Office of School and Community Partnerships to Fund All 29 County SUN Service System Sites through January 31, 2007

COMMISSIONER ROJO MOVED AND COMMISSIONER ROBERTS SECONDED, APPROVAL OF R-12. COMMISSIONER ROJO EXPLANATION AND COMMENTS IN APPRECIATION FOR THE WORK OF THE BOARD AND IN APPRECIATION FOR CHAIR LINN'S UNWAVERING SUPPORT OF SUN SCHOOLS. COMMISSIONER ROJO MOVED AND COMMISSIONER CRUZ SECONDED, APPROVAL OF SUBSTITUTE RESOLUTION. CHAIR LINN COMMENTS IN SUPPORT OF RESOLUTION. COMMISSIONER ROBERTS COMMENTS IN SUPPORT OF RESOLUTION AND IN APPRECIATION FOR THE ASSISTANCE OF LOLENZO POE AND HIS STAFF. CHAIR LINN COMMENTS IN APPRECIATION FOR THE SUPPORT OF EDUCATORS, COMMUNITY LEADERS, NON-PROFITS, THE MEDIA, PARTICIPANTS IN THE JUNE 12 PUBLIC

HEARING, COUNTY EMPLOYEES AND LOLENZO POE AND HIS STAFF. COMMISSIONER ROJO EXPRESSED HER APPRECIATION FOR THE WORK OF PEGGY SAMOLINSKI AND LOLENZO POE. KRISTA LARSON, JENNIFER GREEN, JENNIFER SATILINO STONE AND RICHARD NITTI TESTIMONY IN SUPPORT OF RESOLUTION AND IN APPRECIATION TO THE BOARD FOR WORKING TOGETHER TO COME UP WITH A COMPROMISE THAT PROVIDES FUNDING FOR ALL 29 COUNTY SUN SERVICE SYSTEM SITES TO OPERATE THROUGH JANUARY, 2007 IN ORDER TO GIVE TASK FORCE TIME TO FIGURE OUT HOW TO RESOLVE THE SUN SERVICE SYSTEM FUNDING GAP. SUBSTITUTE RESOLUTION 06-150 UNANIMOUSLY ADOPTED.

R-13 Budget Modification OSCP-01 Appropriating \$384,841 County General Fund Contingency to Fund SUN Schools

COMMISSIONER ROJO MOVED AND COMMISSIONER CRUZ SECONDED, APPROVAL OF R-13. CHAIR LINN COMMENTS IN SUPPORT. BUDGET MODIFICATION UNANIMOUSLY APPROVED.

The regular meeting was recessed at 10:46 a.m. and the briefing was reconvened at 10:56 a.m.

Thursday, August 17, 2006 - 10:35 AM
(OR IMMEDIATELY FOLLOWING REGULAR MEETING)
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

BOARD BRIEFING

B-1 Up-to-Date Information Regarding Status of the Federal Approval Process for the Proposed Bridge of the Gods Resort and Casino. Presented by Len Bergstein and Members of the Confederated Tribes of the Warm Springs. 75 MINUTES REQUESTED.

COMMISSIONER NAITO SUGGESTED THAT A HEARING FOR PUBLIC TESTIMONY ON THE PROPOSED RESORT AND CASINO BE SCHEDULED AT A LATER DATE. COMMISSIONER ROBERTS WELCOMED THE BRIEFING PRESENTERS. LEN BERGSTEIN, TRIBE ATTORNEY HOWIE ARNETT, CHIEF DELVIS HEATH, CASCADE LOCKS CITY MANAGER ROBERT WILLOBY, MICHAEL MASON, JEFF FORD AND LOUIS PITT INFORMATIONAL PRESENTATIONS AND COMMENTS IN SUPPORT OF A PROPOSED BRIDGE OF THE GODS RESORT AND CASINO. PATRICIA ANDERSON AND FRIENDS OF THE GORGE DIRECTOR MICHAEL LANG COMMENTS IN OPPOSITION TO A PROPOSED WARM SPRINGS TRIBE CASINO IN THE GORGE. MR. LANG RESPONDED TO QUESTIONS OF CHAIR LINN AND THANKED THE BOARD FOR WRITING LETTERS TO THE DEPARTMENT OF INTERIOR OPPOSING A CASINO IN THE GORGE.

There being no further business, the meeting was adjourned at 12:05 p.m.

BOARD CLERK FOR MULTNOMAH COUNTY, OREGON

Deborah L. Bogstad



Multnomah County Oregon

Board of Commissioners & Agenda

connecting citizens with information and services

BOARD OF COMMISSIONERS

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AUGUST 17, 2006 BOARD MEETING FASTLOOK AGENDA ITEMS OF INTEREST

Pg 2	9:00 a.m. if needed Executive Session
Pg 2	9:30 a.m. Opportunity for Public Comment
Pg 3	9:45 a.m. Resolution Authorizing a Three-Month Closure of Portion of Corbett Hill Road
Pg 3	9:47 a.m. Public Hearing on Measure 37 Claim of Howard Winters, 29446 E. Woodard Road
Pg 3	10:00 a.m. Public Hearing on Measure 37 Claim of Kent and June Meyer, 19544 NW Sauvie Island Road
Pg 4	10:20 a.m. General Fund Contingency Requests for Bienestar Mental Health and SUN School Program Services Funding
The August 24 and 31, 2006 Board Meetings are Cancelled	

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

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

Friday, 11:00 PM, Channel 30

Saturday, 10:00 AM, Channel 30

Sunday, 11:00 AM, Channel 30

Produced through MetroEast Community Media
(503) 667-8848, ext. 332 for further info

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

Thursday, August 17, 2006 - 9:00 AM
Multnomah Building, First Floor Commissioners Conference Room 112
501 SE Hawthorne Boulevard, Portland

IF NEEDED EXECUTIVE SESSION

- E-1 The Multnomah County Board of Commissioners will meet in Executive Session Pursuant to ORS 192.660(2)(h). Only Representatives of the News Media and Designated Staff are allowed to attend. News Media and All Other Attendees are Specifically Directed Not to Disclose Information that is the Subject of the Session. No Final Decision will be made in the Session. Presented by Agnes Sowle. 15-30 MINUTES REQUESTED.
-

Thursday, August 17, 2006 - 9:30 AM
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

REGULAR MEETING

CONSENT CALENDAR - 9:30 AM

DEPARTMENT OF COUNTY MANAGEMENT

- C-1 Amendment 2 to Intergovernmental Expenditure Contract 4600003470 with the Oregon Bureau of Labor and Industries, Providing Continued Administrative Enforcement of Complaints Filed Under Multnomah County Code Chapters 15.340 to 15.347

DEPARTMENT OF COMMUNITY SERVICES

- C-2 Intergovernmental Revenue Agreement 0607046 with the City of Troutdale for Water Line Improvements in Connection with Multnomah County's Beaver Creek Bridge Rehabilitation Project

REGULAR AGENDA - 9:30 AM

PUBLIC COMMENT - 9:30 AM

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

DEPARTMENT OF COUNTY HUMAN SERVICES - 9:30 AM

- R-1 Budget Modification DCHS-01 Reclassifying Four Positions in the Aging and Disabilities Services Division, as Determined by the Class/Comp Unit of Central Human Resources, as Part of a Reorganization of the Long Term Care Management Structure
- R-2 RESOLUTION Appointing Rex Surface, Patrice Botsford, and Karl Brimmer as County Financial Assistance Administrators for the State of Oregon Department of Human Services, 2005-2007 County Financial Assistance Intergovernmental Revenue Agreement 0506026 (State #113012)

DEPARTMENT OF HEALTH - 9:35 AM

- R-3 Budget Modification HD-01 Appropriating \$1,535,042 for the Homeless Mobile Clinic in the Health Department
- R-4 Budget Modification HD-02 Approving Five Program Supervisor Positions within the Health Service Clinics and Reclassifying Three Administrative Positions within the Department

DEPARTMENT OF COUNTY MANAGEMENT - 9:40 AM

- R-5 Reallocation of Facilities Capital Project Funds FPM-10, Building System Emergency Repair Mini-Fund
- R-6 RESOLUTION Approving 2006-2007 Cost of Living Adjustment (COLA) for the Federation of Oregon Parole and Probation Officers (FOPPO)

DEPARTMENT OF COMMUNITY SERVICES - 9:45 AM

- R-7 RESOLUTION Authorizing a Three-Month Closure of a Portion of Corbett Hill Road to Conduct the Corbett Hill Viaduct Replacement Project
- R-8 Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by Howard Winters for \$3,000,000 in Compensation or Relief from Regulations to Allow a 31 Lot Subdivision on Property Located at 29446 E. Woodard Road [T1S, R4E, SEC 06A, TL 300; T1S, R4E, SEC 06B, TL 100 & 200; T1N, R4E, SEC 31C TL 800 & 900; T1N, R4E, SEC 31DC, TL 400] (Case File T1-06-008). Presented by Adam Barber and Sandra Duffy.
- R-9 Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by Kent and June Meyer for \$300,000 in Compensation or Relief from

Regulations to Allow a 3 Parcel Land Division on Property Located at 19544 NW Sauvie Island Road [T2N, R 1W, SEC 08, TL 1100] (Case File T1-06-009) . Presented by Adam Barber and Sandra Duffy.

NON-DEPARTMENTAL - 10:15 AM

- R-10 RESOLUTION Appointing Design Team Co-Chairs and Directing the Team to Begin the Planning Process for Multnomah County's Fiscal Year 2007-2008 Budget
- R-11 Budget Modification DCHS 04 Appropriating \$57,882 County General Fund Contingency to Fund Program Offer 25072B - Bienestar Mental Health Services Scale
- R-12 RESOLUTION Allocating \$384,841 of Contingency Funds to the Office of School and Community Partnerships to Fund All 29 County SUN Service System Sites through January 31, 2007
- R-13 Budget Modification OSCP-01 Appropriating \$384,841 County General Fund Contingency to Fund SUN Schools

Thursday, August 17, 2006 - 10:35 AM
(OR IMMEDIATELY FOLLOWING REGULAR MEETING)
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

BOARD BRIEFING

- B-1 Up-to-Date Information Regarding Status of the Federal Approval Process for the Proposed Bridge of the Gods Resort and Casino. Presented by Len Bergstein and Members of the Confederated Tribes of the Warm Springs. 75 MINUTES REQUESTED.



**MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST**

Board Clerk Use Only

Meeting Date: 08/17/06
 Agenda Item #: E-1
 Est. Start Time: 9:00 AM
 Date Submitted: 07/24/06

BUDGET MODIFICATION: -

Agenda Title: Executive Session Pursuant to ORS 192.660(2)(h)

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

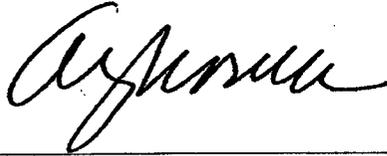
Date Requested:	<u>August 17, 2006</u>	Time Requested:	<u>15 -30 mins</u>
Department:	<u>Non-Departmental</u>	Division:	<u>County Attorney's Office</u>
Contact(s):	<u>Agnes Sowle</u>		
Phone:	<u>503 988-3138</u>	Ext.	<u>83138</u>
Presenter(s):	<u>Agnes Sowle and Invited Others</u>		
I/O Address:	<u>503/500</u>		

General Information

1. **What action are you requesting from the Board?**
 No Final Decision will be made in the Executive Session.
2. **Please provide sufficient background information for the Board and the public to understand this issue.**
 Only Representatives of the News Media and Designated Staff are allowed to Attend. Representatives of the News Media and All Other Attendees are Specifically Directed Not to Disclose Information that is the Subject of the Executive Session.
3. **Explain the fiscal impact (current year and ongoing).**
4. **Explain any legal and/or policy issues involved.**
 ORS 192.660(2)(h).
5. **Explain any citizen and/or other government participation that has or will take place.**

Required Signatures

**Department/
Agency Director:**



Date: 07/24/06

Budget Analyst:

Date:

Department HR:

Date:

Countywide HR:

Date:



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

Board Clerk Use Only

Meeting Date: 08/17/06
 Agenda Item #: C-1
 Est. Start Time: 9:30 AM
 Date Submitted: 08/09/06

BUDGET MODIFICATION:

Amendment 2 to Intergovernmental Expenditure Contract 4600003470 with the Oregon Bureau of Labor and Industries, Providing Continued Administrative Enforcement of Complaints Filed Under Multnomah County Code Chapters
Agenda Title: 15.340 to 15.347

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

Date Requested: August 17, 2006 **Time Requested:** N/A
Department: County Management **Division:** Diversity & Affirmative Action
Contact(s): Angela Cration
Phone: 503-988-5015 **Ext.** 29845 **I/O Address:** 503/4
Presenter(s): Consent Calendar or Robert E. Phillips or Travis Graves if needed

General Information

1. What action are you requesting from the Board?

Approve Amendment 2 to Intergovernmental Expenditure Contract 4600003470 with the Oregon Bureau of Labor and Industries, Providing Continued Administrative Enforcement of Complaints Filed Under Multnomah County Code Chapters 15.340 to 15.347

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

On November 29, 2001, the Board of County Commissioners of Multnomah County by Ordinance No. 969 adopted amendments to the County Code to prohibit discrimination in Multnomah County in employment, housing, and public accommodations on the basis of race, religion, color, sex, marital status, familial status, mental or physical disability, sexual orientation, gender identity and source of income.

The Oregon Bureau of Labor and Industries (BOLI) already enforces the anti-discrimination provisions contained in ORS Chapter 659A and in the City of Portland Code and has substantial expertise in such enforcement. In July 2002, BOLI was contracted to be the enforcement agent for Multnomah County.

Program Offer number 72088 (*Diversity and Affirmative Action*) is impacted by this agreement

amendment. Approving this agreement will officially re-sanction the Oregon Bureau of Labor and Industries to continue enforcing those provisions of Multnomah County Code §§ 15.340 to 15.347 which are not currently covered by ORS Chapter 659A.

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

The Board of County Commissioners has provided for funding for this activity through an allocation of General Funds for the FY 2006-07 in the amount of \$25,000.00.

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

Multnomah County wishes BOLI to continue to enforce those provisions of County Code §§ 15.340 to 15.347 which are not currently covered by ORS Chapter 659A.

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

Citizens alleging gender identity discrimination under the Multnomah County Code (MCC) §§ 15.340 to 15.347 will be entitled to file a complaint with the Oregon Bureau of Labor and Industries.

Required Signatures

**Department/
Agency Director:**

Mindy Harris

Date: 08/09/06

Budget Analyst:

Date:

Department HR:

Date:

Countywide HR:

Date:

MULTNOMAH COUNTY CONTRACT APPROVAL FORM (CAF)

Contract #: 4600003470

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

Amendment #: 2

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

Department: County Management Division/ Program: Diversity & Affirmative Action Date: 08/08/2006
 Originator: Robert Phillips Phone: 503-988-4377 Bldg/Room: 503/4
 Contact: Angela Craton Phone: 503-988-5015 Bldg/Room: 503/4

Description of Contract: Provide administrative enforcement of complaints filed under Multnomah County Code MCC 15.340 to 15.347.

RENEWAL: PREVIOUS CONTRACT #(S): 4600002830 EEO CERTIFICATION EXPIRES _____
 PROCUREMENT IGA ISSUE: _____ EFFECTIVE _____ END _____
 EXEMPTION OR _____ DATE: _____ DATE: _____ DATE: _____
 CITATION # _____
 CONTRACTOR IS: MBE WBE ESB QRF State Cert# _____ or Self Cert Non-Profit N/A. (Check all boxes that apply)

Contractor	Oregon Bureau of Labor & Industries			Remittance address (if different)		
Address	800 NE Oregon			Payment Schedule / Terms:		
City/State	Portland, Oregon				<input type="checkbox"/> Lump Sum \$ _____	<input type="checkbox"/> Due on Receipt
ZIP Code	97232-2162				<input type="checkbox"/> Monthly \$ _____	<input type="checkbox"/> Net 30
Phone	503 731-4873				<input checked="" type="checkbox"/> Other \$ _____	<input type="checkbox"/> Other
Employer ID# or SS#	93-6001771			<input type="checkbox"/> Price Agreement (PA) or Requirements Funding Info:		
Contract Effective Date	01/20/2002	Term Date	06/30/2002			
Amendment Effect Date	07/01/2006	New Term Date	06/30/2011			
Original Contract Amount	\$ 25,000.00			Original PA/Requirements Amount	\$ 0	
Total Amt of Previous Amendments	\$ 0			Total Amt of Previous Amendments	\$ 0	
Amount of Amendment	\$ 0			Amount of Amendment	\$ 25,000.00	
Total Amount of Agreement \$	\$ 25,000.00			Total PA/Requirements Amount	\$ 25,000.00	

REQUIRED SIGNATURES:

Department Manager: Mindy Harris DATE: 8/9/06
 County Attorney: Kathryn A. Shad DATE: 8/8/06
 CPCA Manager: _____ DATE: C
 County Chair: Joe Wang DATE: 8-17-06
 Sheriff: _____ DATE: _____
 Contract Administration: _____ DATE: _____

COMMENTS: Use Cost Center: 705300 (Central Human Resources)

APPROVED: MULTNOMAH COUNTY BOARD OF COMMISSIONERS
 AGENDA # C-1 DATE 08.17.06
 DEBORAH L. BOGSTAD, BOARD CLERK

INTERGOVERNMENTAL AGREEMENT

BETWEEN MULTNOMAH COUNTY AND THE STATE OF OREGON, BUREAU OF LABOR AND INDUSTRIES (BOLI) FOR ENFORCEMENT OF MULTNOMAH COUNTY'S CIVIL RIGHTS ORDINANCE

This Agreement is entered into by and between the Multnomah County, Oregon, (County), and the Oregon Bureau of Labor and Industries (BOLI or Contractor) pursuant to ORS 190.110.

RECITALS:

1. On November 29, 2001, the Board of County Commissioners of Multnomah County by Ordinance No. 969 adopted amendments to the County Code to prohibit discrimination in Multnomah County in employment, housing, and public accommodations on the basis of race, religion, color, sex, marital status, familial status, mental or physical disability, sexual orientation, gender identity and source of income.
2. BOLI already enforces the anti-discrimination provisions contained in ORS Chapter 659A and in the City of Portland Code and has substantial expertise in such enforcement.
3. The County wishes BOLI to enforce those provisions of County Code §§ 15.340 to 15.347 which are not currently covered by ORS Chapter 659A. The Board of County Commissioners has provided for funding for this activity through an allocation of General Funds for the FY 2006-07 in the amount of \$25,000.00.
4. BOLI desires to be the enforcement agent for the County.
5. The County and BOLI agree that BOLI will enforce gender identity claims that are also covered under state law without charge to the County. For gender identity claims that do not state a complaint under any state civil rights statutes under BOLI jurisdiction, BOLI will follow the procedure described in Exhibit C.

TERMS:

1. Scope of BOLI Services

BOLI shall provide those services set out in Exhibit A hereto.

BOLI shall structure its provision of services to gender identity claimants as described in Exhibit C hereto.

BOLI shall achieve and report on the following Performance Measures:

- ✓ Handle up to 20 cases depending upon complaint filings
- ✓ Complainants will be interviewed by an investigator within 30 days of the filing date
- ✓ Complaints will be processed within 90 days of filing
- ✓ 100% of the complaints will meet the Division's quality characteristics

2. Reimbursement of Expenses

The County shall pay BOLI for work performed under this Agreement as set out in Exhibit B hereto. The payment shall be full reimbursement for work performed, for services rendered, and for all labor, materials, supplies, equipment, and incidentals necessary to perform the work and services. Payment shall be made upon submission of a detailed invoice of expenses. Payment shall be made on a requirements basis.

It is agreed that total reimbursement under this Agreement shall not exceed TWENTY FIVE THOUSAND DOLLARS (\$25,000.00).

3. Term

- a) Effective Date: This Agreement shall be effective when signed by both parties and shall cover expenses incurred by BOLI after the effective date.
- b) Termination Date - New Case Intake: This agreement is intended to remain in effect on a perpetual basis. This agreement shall be effective as of July 1, 2006 and shall terminate upon proper notice by the parties as provided in this agreement.
- c) Termination Date - Disposition of Cases Filed With BOLI: With respect to cases initiated with BOLI prior to June 30, 2011, or the date of early termination pursuant to paragraph 4, this Agreement shall remain in effect through completion of BOLI's administrative processing of such cases.
- d) Renewal: This contract shall automatically renew on the contract anniversary each year unless either party mails or delivers to the other not less than 30 days prior to such date a notice of termination. All contract terms shall apply during any renewal period, unless BOLI shall have submitted in writing to County not less than 60 days prior to the contract anniversary a list of price adjustments that will apply to the upcoming renewal period. County shall be deemed to have accepted such price adjustments if the contract is renewed. Refer to Exhibit B.

4. Early Termination

- a) The County and BOLI, by mutual written agreement, may terminate the intake of new cases under this Agreement at any time.
- b) Either party may withdraw and cancel this agreement by providing written notice 120 days in advance. Either party may terminate this agreement for default upon 60 days notice, provided the party seeking to terminate for default gives the other party a 30-day period in which to cure the default.
- c) Nothing herein shall operate as a bar to termination of the Agreement in the event that either party is found to lack the legal capacity to perform under the Agreement.

5. Contract Managers

- a) For the County, the Contract Manager shall be Robert E. Phillips, Program Manager for Diversity & Affirmative Action, or such other employee named at the discretion of the County.
- b) For BOLI, the Contract Manager shall be Amy K. Klare, Civil Rights Division Administrator, or such other employee named at the discretion of BOLI.
- c) Contract Managers shall have the authority to approve invoices for payment and minor changes to the Scope of Work. Any changes will be communicated in writing.

6. Breach of Agreement

- a) BOLI or the County shall breach this Agreement if either party fails to perform any substantial obligation under the Agreement, except as provided in subsection "b" of this section.
- b) Neither BOLI nor the County shall have breached this agreement by reason of any failure to perform a substantial obligation under the Agreement if the failure arises out of causes beyond its control and without its fault or negligence. Should either BOLI or the County fail to perform because of circumstances described in this subsection, BOLI and the County shall make a mutually acceptable revision in the scope of services or compensation sections of this Agreement.

7. Legal Services

BOLI shall be solely responsible to bear any legal costs or fees arising out of this Agreement, except that where BOLI requires outside legal services for enforcement of claims arising solely under the County ordinance against the County as respondent or in relation to records confidentiality under ORS 192.001-.505, the County shall be liable for BOLI's expense.

8. General Contract Provisions

- A. **TERMINATION FOR CAUSE.** If, through any cause, the Contractor shall fail to fulfill in timely and proper manner its obligations under this Contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Contract, the County shall have the right to terminate this Contract by giving written notice to the Contractor of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, and reports prepared by the Contractor under this Contract shall, at the option of the County, become the property of the County and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.

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

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

- B. **TERMINATION FOR CONVENIENCE.** The County and Contractor may terminate this Contract at any time by mutual written agreement. If the Contract is terminated by the County as provided herein, the Contractor 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 Contractor covered by this Contract less payments of compensation previously made.
- C. **REMEDIES.** In the event of termination under Section A hereof by the County due to a breach by the Contractor, then the County 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 Contractor hereunder plus the remaining unpaid balance of the compensation provided herein, then the Contractor shall pay to the County the amount of excess.

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

In the event of breach of this contract by the County, then the Contractor's remedy shall be limited to termination of the contract and receipt of payment as provided in section B hereof.

- D. **CHANGES.** The County may, from time to time, request changes in the scope of the services or terms and conditions hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, shall be incorporated in written amendments to this Contract.
- E. **NONDISCRIMINATION.** In carrying out activities under this contract, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, familial status, national origin, source of income, political affiliation, sexual orientation, gender identity, marital status, physical or mental disability. The Contractor shall take affirmative actions to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, handicap, familial status or national origin, source of income, political affiliation, sexual orientation, gender identity, marital status, physical or mental disability. Such action shall include but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

- F. **ACCESS TO RECORDS.** The County, or their duly authorized representatives, shall have access to any books, general organizational and administrative information, documents, papers, and records of the Contractor that are directly pertinent to this contract, for the purpose of making audit examination, excerpts, and transcriptions. All required records must be maintained by the Contractor for three years after the County makes final payment and all other pending matters are closed.
- G. **MAINTENANCE OF RECORDS.** The Contractor shall maintain records on a current basis to support its billings to the County. The County 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 Contractor regarding its billings or its work hereunder. The Contractor shall retain these records for inspection, audit, and copying for 3 years from the date of completion or termination of this contract.
- H. **AUDIT OF PAYMENTS.** The County, either directly or through a designated representative, may audit the records of the Contractor at any time during the 3-year period established by Section G above.

If an audit discloses that payments to the Contractor were in excess of the amount to which the Contractor was entitled, then the Contractor shall repay the amount of the excess to the County.

- I. **INDEMNIFICATION.** The County and the Contractor each shall be responsible, to the extent required by the Oregon Tort Claims Act (ORS 30.260-30.3000), only for the acts, omissions or negligence of its own officers, employees or agents.
- J. **WORKERS' COMPENSATION INSURANCE.**

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

(b) In the event the Contractor's worker's compensation insurance coverage is due to expire during the term of this Agreement, the Contractor 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 Contractor agrees to provide the County such further certification of worker's compensation insurance a renewals of said insurance occur.

K. LIABILITY INSURANCE.

- (a) The Contractor shall maintain public liability and property damage insurance that protects the Contractor and the County and its officers, agents, and employees from any and all claims, demands, actions, and suits for damage to property or personal injury, including death, arising from the Contractor's work under this contract. The insurance shall provide coverage for not less than \$200,000 for personal injury to each person, \$500,000 for each occurrence, and \$500,000 for each occurrence involving property damages; or a single limit policy of not less than \$500,000 covering all claims per occurrence. The limits of the insurance shall be subject to statutory changes as to maximum limits of liability imposed on municipalities of the state of Oregon during the term of the agreement. The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds the County and its officers, agents, and employees. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. The coverage must apply as to claims between insureds on the policy. The insurance shall provide that it shall not terminate or be canceled without 30 days written notice first being given to the County Auditor. If the insurance is canceled or terminated prior to completion of the contract, Contractor shall provide a new policy with the same terms. Contractor agrees to maintain continuous, uninterrupted coverage for the duration of the contract. The insurance shall include coverage for any damages or injuries arising out of the use of automobiles or other motor vehicles by Contractor.
- (b) The Contractor shall maintain on file with the County a certificate of insurance certifying the coverage required under subsection (a). The adequacy of the insurance shall be subject to the approval of the County Attorney. Failure to maintain liability insurance shall be cause for immediate termination of this agreement by the County.

In lieu of filing the certificate of insurance required herein, Contractor shall furnish a declaration that Contractor is self-insured for public liability and property damage for a minimum of the amounts set forth in ORS 30.270.

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

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

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

N. REPORTING REQUIREMENTS. The Contractor shall report on its activities in a format and by such times as prescribed by the County.

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

No County officer or employees who participated in the award of this contract shall be employed by the Contractor during the period of the contract.

P. OREGON LAW AND FORUM. This contract shall be construed according to the law of the State of Oregon.

Any litigation between the County and the Contractor arising under this contract or out of work performed under this contract 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.

Q. COMPLIANCE WITH LAWS. In connection with its activities under this contract, the Contractor shall comply with all applicable federal, state, and local laws and regulations.

R. 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.

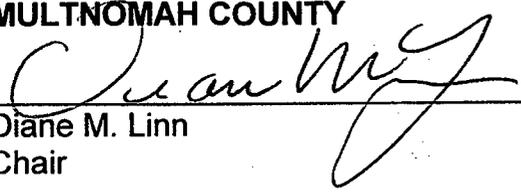
S. INTEGRATION. This agreement contains the entire agreement between the County and the Contractor and supercedes all prior written or oral discussions or agreements.

T. PROGRAM AND FISCAL MONITORING. The County shall monitor on a regular basis to assure contract compliance. Such monitoring may include, but are not limited to, on site visits, telephone interviews, and review of required reports and will cover both programmatic and fiscal aspects of the contract. The frequency and level of monitoring will be determined by the County.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by duly authorized representatives as of the date of their signatures.

MULTNOMAH COUNTY

OREGON BUREAU OF LABOR AND INDUSTRIES



Diane M. Linn
Chair

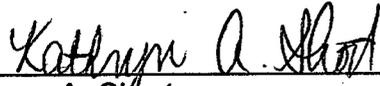
Dan Gardner
Commissioner

Date: 8.17.06

Date: _____

Reviewer:

Agnes Sowle, County Attorney
For Multnomah County, Oregon

By 

Kathryn A. Short
Assistant County Attorney

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-1 DATE 08.17.06
DEBORAH L. BOGSTAD, BOARD CLERK

EXHIBIT A

DESCRIPTION OF ENFORCEMENT SERVICES TO BE RENDERED BY THE BUREAU OF LABOR AND INDUSTRIES ("BOLI")

I. GENERAL DESCRIPTION OF SERVICES

BOLI shall provide administrative enforcement of complaints filed under Multnomah County Code ("MCC") §§ 15.340 to 15.347. This includes enforcement of claims filed against the County itself.

II. ENFORCEMENT STEPS

A. Filing a Complaint

1. Immediately upon receipt of a complaint alleging a violation of MCC 15.343 B., 15.344 B., or 15.345 B., BOLI shall commence processing of the complaint.
2. The procedures for filing a complaint are as follows:
 - a. An individual makes an inquiry to the BOLI Civil Rights Division (CRD).
 - b. An intake officer talks with the individual to determine whether he/she has a potential basis for filing a complaint under MCC §§ 15.340 to 15.347.
 - c. If the intake officer determines that the individual has a basis for filing a complaint, one of the following two steps will be taken:
 - (1) If the complaint involves potential violation of MCC 15.344 B (discrimination in housing) the complainant will be referred to the Fair Housing Council of Oregon which may schedule testing and referral to the private bar, or back to BOLI;
 - (2) If the complaint involves a potential violation of MCC 15.343 B.(discrimination in employment) or 15.345 B. (discrimination in public accommodations), an interview will be scheduled at BOLI.
 - d. The intake officer will draw up a complaint which the individual will review and sign. The signature must be notarized. CRD will provide notary service if needed.
 - e. The notarized charge will be forwarded to a senior civil rights investigator responsible for in-depth Complainant interviews and prompt charge assessment.
 - f. A complaint must be filed with BOLI within one year of the alleged unlawful practice. If the alleged unlawful practice is of a continuing nature, the right to file a complaint exists so long as the complaint is filed within one (1) year from any date of occurrence.

B. Notice of Filing

1. Notification letters will be sent to Respondent requesting a position statement within 14 days of filing. The Respondent's position statement will consist of the proper identification of the Respondent and a response to the specific allegations in the complaint.
2. Notification letters will be sent to the Complainant requiring that he/she contact the investigator within 14 days to schedule a complainant interview.

C. Charge Assessment

1. Complainants will be given an in-depth interview within 30 days from the date the complaint is filed with the Division. The interview will cover each specific harm suffered by the Complainant and the dates of occurrence. For each harm suffered, the Complainant must be able to specify relevant incidents to show specific intent or disparate treatment. The Complainant must be able to articulate linkages or causal connection between the harm and the protected class. Witnesses and comparators must be identified if the Complainant was in a position to have access to such information.
2. If the Complainant states that missing evidence exists, they will be given 14 days to provide the evidence upon request of the investigator. Failure to provide the required information will result in a dismissal.
3. Investigators will utilize the Civil Rights Division's screening criteria to separate the cases into A, B, or C categories.
 - a. **"A" CASES** are those which more likely than not will result in substantial evidence cases. Full investigation will be conducted until the investigator is able to write a substantial evidence administrative determination or a dismissal memo.
 - b. **"B" CASES** are those which need more information in order to determine whether it is an A or C case. The investigator may utilize the investigative tools of FFC, specific interrogatory, and witness/Respondent interviews as appropriate.
 - c. **"C" CASES** are those which are dismissed because the evidence gathered would not be sufficient to result in a substantial evidence finding. In most cases, Complainants will have been interviewed and a Respondent position statement will be in the case file.

Some examples of cases that can be resolved under C category dismissal are: non-jurisdictional, charges unsupported by any direct or circumstantial evidence of discrimination, and the Complainant was in a position to have access to such evidence, the Complainant was not credible.

4. When a dismissal has been determined, the Complainant will be informed that he/she may pursue their case through the courts and will receive a state notice of complainant's right to file a civil suit. The investigator who is responsible for deciding a dismissal must explain in the notice why the action to dismiss was taken.

5. Dismissal cases require the investigator to write a brief memo to the case file which must be signed by a manager and which states the reason why the case has been dismissed. A letter will be sent to the Complainant and Respondent advising them of the dismissal.
6. Cases that have not been dismissed after the Complainant interview will be assigned to a B team investigator who will continue the investigation on B cases. Cases in B category can be dismissed if it is determined that there is insufficient evidence to demonstrate that the case will not result in a cause finding.

D. Pre-Determination Settlement (PDS)

1. BOLI encourages complainants and respondents to resolve complaints by mutual agreement at any time before an Administrative Determination is made. CRD will notify both parties of this option in the notice of filing and during its initial contacts with them. CRD will mediate between the parties to aid such a settlement. However, the CRD will not permit these negotiations to become so lengthy that they defeat the overall purpose of the ordinance enforced by BOLI.
2. If, before an Administrative Determination is made, the parties agree upon settlement, a CRD representative will draft a PDS agreement. The agreement will state:
 - a. That a "no-fault" settlement has been reached;
 - b. That the complainant and respondent accept the terms of the agreement as a resolution of the complaint;
 - c. The specific action(s) the respondent and/or complainant will take in settlement of the complaint and the time within which the action(s) will be taken; and
 - d. That BOLI may investigate any alleged breaches of the agreement.
3. The complainant, respondent and CRD representative will sign the PDS agreement. Upon execution of the PDS agreement, CRD will close the complaint and notify the complainant and respondent.

E. Fact-Finding Conference

1. At such times as it deems appropriate, CRD may hold a fact-finding conference. When appropriate, the conference will occur within thirty (30) days of the filing of a complaint. Such a conference is part of CRD's investigation of the complaint. The purpose of the conference will be:
 - a. To identify the undisputed elements of the complaint;
 - b. To define and, if possible, resolve the disputed elements of the complaint; and
 - c. To attempt to settle the complaint.
2. A representative of CRD will schedule the conference, notifying both the complainant and the respondent of the date, time and place. The CRD representative may require

the complainant and/or respondent to provide information and documents for use at the conference and will make such request at least ten (10) days prior to the conference.

3. The complainant and the respondent may be accompanied by counsel, but counsel's role is advisory only. The conference will be informal and cross-examination will not be allowed. A complainant's failure to appear shall not result in administrative closure of the case through dismissal of charges against the respondent, unless such failure is part of a sustained pattern of non-cooperation, making enforcement of the case unreasonable.
4. If the conference does not result in settlement, the CRD representative will either:
 - a. Issue an Administrative Determination stating that there is substantial evidence of unlawful discrimination in support of the complainant's allegations; or
 - b. Determine that there is insufficient evidence to issue an Administrative Determination and issue a dismissal memo or refer the case to an investigator to conduct a complete investigation.

F. Investigation

1. If a complaint is not resolved through pre-determination settlement or otherwise dismissed, CRD will investigate the allegations contained in the complaint. The purpose of the investigation is to determine objectively whether there is substantial evidence of unlawful discrimination.
2. The investigation will include interviews with the complainant, respondent and anyone else who may be a source of evidence. The investigation may also involve the examination and analysis of written documents.
3. Except at the request of a witness, neither the respondent nor the respondent's representative will be present during interviews of witnesses who are the respondent's non-supervisory employees or former employees. Upon request, CRD will provide the complainant, respondent or witness with a copy of any existing written transcript or summary of his/her own testimony.
4. The investigator will make written requests to the respondent for documents, records, files or other sources of evidence. The respondent will be required to provide such information within twenty-one (21) days of the date of the investigator's written request. If the respondent is unable to provide the information within that time, he/she will notify the investigator within ten (10) days of the date of receipt of the investigator's request. The notification will be in writing and will state the specific time, not to exceed fourteen (14) days beyond the original due date, when the information will be provided.

5. The investigator will make all reasonable efforts to obtain the respondent's voluntary consent for access to the respondent's business premises, relevant evidence and sources of evidence when the nature of the complaint requires such access. With the respondent's consent, the investigator, while on the respondent's business premises, may examine records and copy such materials and may take the statements of such employees as are relevant to the allegations of the complaint. If the respondent does not give voluntary consent, BOLI will exercise its vested authority to obtain the necessary information.

G. Administrative Determination/Dismissal

1. Upon completion of the investigation, CRD will issue an Administrative Determination based on the statements of the complainant, respondent and witnesses and the analysis of records and other relevant evidence. A copy of the Administrative Determination will be provided to the complainant and respondent.
2. If CRD finds no substantial evidence of unlawful discrimination, BOLI will close the complaint and notify the complainant and respondent of the closure. It will notify the complainant of his/her right, if any, to file a civil suit. If CRD finds substantial evidence of unlawful discrimination, BOLI will notify the complainant and respondent. The complaint will be assigned to a CRD manager for conciliation. However, the Commissioner may proceed directly to a contested case hearing if the interests of justice so require.
3. BOLI will process all cases from perfected charges through Administrative Determination within 90 days.
4. The Administrative Determination will be final.

H. Conciliation

1. If CRD finds substantial evidence of unlawful discrimination, a representative of CRD will seek to eliminate the effects of the unlawful discriminatory act(s) by conference, conciliation and persuasion. BOLI will not allow such negotiations to be so lengthy that they defeat the purposes of the ordinance enforced by BOLI. If an agreement is reached which is satisfactory to the complainant and respondent, CRD's representative will draft a conciliation agreement. The agreement will state:
 - a. That the complainant and respondent accept the terms of the agreement as a resolution of the complaint;
 - b. The specific action(s) the respondent and/or complainant will take in settlement of the complaint and the time within which the action(s) will be taken; and
 - c. That CRD will investigate any alleged breaches of the agreement.
2. Upon execution of the agreement (signed by both parties), CRD will close the complaint and notify the complainant and respondent.
3. BOLI will complete the investigation and conciliation activities within 150 days after receipt of the complaint.

I. Failed Conciliation -- Contested Case Hearing

1. When CRD is unable to obtain voluntary compliance through conference, conciliation or persuasion, CRD will refer the complaint to its hearing presenter to be prepared for a contested case hearing.

III. TRAINING

BOLI will provide its investigators with training on enforcing the County's Civil Rights Ordinance.

IV. RECORDS CONFIDENTIALITY

ORS 192.501 (8) conditionally exempts investigatory information relating to any complaint filed under ORS 659A.040 or 659A.045, until such time as the complaint is resolved under ORS 659A.050, or a final administrative determination is made under ORS 659A.060. This exemption may not govern records filed with BOLI under County Code §§ 15.340 to 15.347. BOLI will therefore ensure that to the extent possible, records submitted to it meet the requirements detailed in ORS 192.502 (3) "Confidential Disclosures by Citizens."

V. ACCESS TO RECORDS BY THE COUNTY

BOLI will provide the County Attorney's Office and the Contract Manager with full access to open and closed case files, unless the County is the respondent. On-site inspection will be arranged at least two working days in advance with the Civil Rights Division.

VI. STATUS CONFERENCES AND QUARTERLY REPORTS

- A. BOLI and the County shall schedule meetings of respective staff when requested by either party to discuss how enforcement of County Code §§ 15.340 to 15.347 is proceeding. The failure to schedule or complete any status conference shall not affect BOLI's obligation to provide written reports as required by this section.
- B. BOLI shall prepare quarterly statistics showing the status of claims filed under this Agreement and shall provide such reports to the Contract Manager, on or before October 30, January 30, April 30 and July 30. Such BOLI reports shall contain a breakdown of all complaints made to BOLI, categorized by references to County Code §§ 15.340 to 15.347. Where complaints include claims of discrimination under federal or state discrimination laws, that information should be included. The report shall indicate at what broad stage of the BOLI administrative process the complaints are currently to be found. (e.g., prior to or post-fact finding conference, prior to or post-investigative stages, prior to or post-Administrative Determination, etc.)

EXHIBIT B

CONTRACT CHARGES

Detailed Quarterly Billing Statements:

BOLI shall prepare a detailed quarterly statement of charges specifying the individual cases for which payment is sought, with a breakdown of charges.

Contract Charges

BOLI will charge \$1,000.00 per case for the processing of complaints from II. A. "Filing a Complaint" to II. G. "Consultation" as described in Exhibit A. This charge includes administrative closures (due to lack of jurisdiction, uncooperative complainant, bankruptcy of respondent, etc.). Administrative closures run fewer than 25 percent of caseload. This practice of charging for administrative closures is consistent with current BOLI contracts with other entities.

Contested Case Hearings

BOLI will charge actual costs for case preparation and hearings. Although costs vary with difficulty per hearing, costs average \$3,000.00. The Division projects to process 1 case through administrative hearings.

Post-hearing administrative expenses

BOLI will charge actual costs for such expenses. Examples include testimony transcription, settling and receiving supersedeas bonds and holding money in trust pending appeal.

EXHIBIT C

1. Complainants alleging gender identity discrimination under the County Ordinance will be entitled to file a complaint with the bureau's Civil Rights Division.
2. A gender identity discrimination complaint filed under the County Ordinance involving facts that also state a complaint under ORS 659A.436 through 659A.449 (discrimination against disabled persons in employment) or ORS 659A.425 (discrimination against disabled persons by public accommodation) or any other civil rights statute under bureau jurisdiction, will be retained by the Civil Rights Division for investigation.
3. For gender identity discrimination complaints under the County Ordinance that do not state a complaint under any state civil rights statutes under bureau jurisdiction, BOLI will advise the complainant that the complaint will not be investigated further and BOLI will refer the complainant to the County designee for referral of such complaints, who in turn will refer the complainant to mediation if a mediation program exists, or to court.



**MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST**

Board Clerk Use Only

Meeting Date: 08/17/06
 Agenda Item #: C-2
 Est. Start Time: 9:30 AM
 Date Submitted: 08/02/06

BUDGET MODIFICATION: -

Agenda Title: Intergovernmental Revenue Agreement 0607046 with the City of Troutdale for Water Line Improvements in Connection with Multnomah County's Beaver Creek Bridge Rehabilitation Project

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

Date Requested:	<u>August 17, 2006</u>	Time Requested:	<u>N/A</u>
Department:	<u>Non-Departmental</u>	Division:	<u>Commissioner District 4</u>
Contact(s):	<u>Robert Maestre, Dept of Community Services</u>		
Phone:	<u>503-988-5001</u>	Ext.	<u>85001</u>
		I/O Address:	<u>455/2/224</u>
Presenter(s):	<u>Consent Calendar</u>		

General Information

1. What action are you requesting from the Board?

To review and approve the attached Intergovernmental Agreement with the City of Troutdale for a water line improvement project.

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

Multnomah County is currently rehabilitating a bridge over Beaver Creek along the Historic Columbia River Highway (HCRH) in the City of Troutdale. The HCRH is a County road at this location. Our project includes moving the City of Troutdale's water line which is suspended under the bridge and re-paving the road surface on the approaches to the bridge. The City of Troutdale is a water provider (a utility) and needs to increase the size of its water line that leads to and crosses the bridge. To save taxpayer money, to avoid cutting the newly paved road within a year, and to minimize disruption to local businesses and residents with a second project, the City would like to contract with the County for this work and have it done as part of the current bridge rehabilitation project. The City just completed its engineering design for the water line improvements and both

governments noticed the opportunity for cooperation.

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

The County's project is approximately \$1,100,000. The City will pay for the entire cost of the water line improvement. It will also provide on-site inspection services for this work. The County will contribute a few hours of administrative time for contract change order processing and project management.

4. Explain any legal and/or policy issues

The City will provide the County a written finding showing that it has complied with its purchasing policies. The County is permitted to include this work as a change order to the current bridge rehabilitation project. The City will continue to own and maintain the water line upon completion of the work.

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

This item will be heard by the City of Troutdale at either their August 15th or 22nd City Council meeting. Water line improvements are covered under Troutdale's capital improvement planning process. The County's bridge rehabilitation project had extensive public and business involvement during its planning phase and construction activities are being coordinated with the community.

Required Signatures

**Department/
Agency Director:**

Lonnie Roberts

Date: 07/31/06

Budget Analyst:

Date: _____

Department HR:

Date: _____

Countywide HR:

Date: _____

MULTNOMAH COUNTY CONTRACT APPROVAL FORM (CAF)

Contract #: 0607046

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

Amendment #: _____

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

Department: Community Services

Division/

Program: Land Use and Trans Program

Date: 8/01/06

Originator: Robert Maestre

Phone: (503) 988-5001

Bldg/Room: 455/Annes

Contact: Cathy Kramer

Phone: (503) 988-5050 x22589

Bldg/Room: 455/Annex

Description of Contract: An Intergovernmental Agreement between the City of Troutdale and Multnomah County for a water line improvement for the City of Troutdale in connection with Multnomah County's Beaver Creek Bridge Rehabilitation Project. This is a Revenue Agreement.

RENEWAL: PREVIOUS CONTRACT #(S) _____

EEO CERTIFICATION EXPIRES _____

PROCUREMENT
EXEMPTION OR
CITATION # _____

ISSUE
DATE: _____

EFFECTIVE
DATE: _____

END
DATE: _____

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

Contractor	City of Troutdale Public Works Department			Remittance address (if different)	_____
Address	342 SW 4 th Street			Payment Schedule / Terms: <input type="checkbox"/> Lump Sum \$ _____ <input type="checkbox"/> Due on Receipt <input type="checkbox"/> Monthly \$ _____ <input type="checkbox"/> Net 30 <input checked="" type="checkbox"/> Other \$ _____ <input type="checkbox"/> Other <input type="checkbox"/> Price Agreement (PA) or Requirements Funding Info:	_____
City/State	Troutdale OR				_____
ZIP Code	97060-2099				_____
Phone	(503) 674-3300/Fax: (503) 492-3502 (James Galloway)				_____
Employer ID# or SS#	N/A				
Contract Effective Date	08/15/06	Term Date	08/14/08		
Amendment Effect Date		New Term Date			
Original Contract Amount	\$	Original PA/Requirements Amount	\$		
Total Amt of Previous Amendments	\$	Total Amt of Previous Amendments	\$		
Amount of Amendment	\$	Amount of Amendment	\$		
Total Amount of Agreement	\$ 140,000.00 (Revenue)	Total PA/Requirements Amount	\$		

REQUIRED SIGNATURES:

Department Manager [Signature]

DATE 8/2/06

County Attorney [Signature]

DATE 8/9/06

CPCA Manager [Signature]

DATE _____

County Chair [Signature]

DATE 8.16.06

Sheriff _____

DATE _____

Contract Administration _____

DATE _____

COMMENTS: (WBS: ROADCEC0399C300)

APPROVED: MULTNOMAH COUNTY
BOARD OF COMMISSIONERS

AGENDA # C-2 DATE 08.17.06

DEBORAH L. BOGSTAD, BOARD CLERK

**INTERGOVERNMENTAL AGREEMENT NO. 0607046
FOR WATER LINE IMPROVEMENT PROJECT ON THE HISTORIC COLUMBIA RIVER
HIGHWAY AT THE BEAVER CREEK BRIDGE**

This Intergovernmental Agreement ("Agreement") is made and entered into by the CITY OF TROUTDALE, a city of the State of Oregon ("City"), and the COUNTY OF MULTNOMAH, a political subdivision of the State of Oregon ("County") to contract for the replacement of the City's water line at and near the Beaver Creek Bridge on the Historic Columbia River Highway in Troutdale. The City and County are collectively referred to as "the Parties."

I. RECITALS:

- A. The Parties are authorized under the provisions of ORS 190.003 to 190.030 to enter into intergovernmental agreements for the performance of any or all functions that a party to the agreement has authority to perform.
- B. The Historic Columbia River Highway at this location is a County road under the County's jurisdiction and is identified as a "Major Collector" under the County's Transportation Plan. The County is currently rehabilitating the bridge over Beaver Creek. A portion of the County's work is relocating Troutdale's water line suspended under the Beaver Creek Bridge and reconnecting the new pipe with the existing waterline east and west of the bridge.
- C. The City needs to improve the capacity of its existing water line connecting to the Beaver Creek Crossing at this location by increasing its size. The City desires to do this in such a way as to reduce the cost to its citizens, avoid cutting into a newly constructed road section within a year of construction, and to minimize disruption of traffic and business.
- D. The City has identified funds for the water line improvements and can make them available to the County.
- E. The County has received and reviewed engineering plans for the waterline improvements from the City and found the water line work to be compatible with the Bridge Rehabilitation project.
- F. The County is able to arrange for the actual construction at no additional cost to the County. The costs for this water line improvement can be separately identified and tracked from the costs of the County's project.
- G. The purpose of this Agreement is to provide a mechanism for the City to accomplish its work through coordination with the County's project.

THE PARTIES AGREE AS FOLLOWS:

II. TERMS AND CONDITIONS:

A. MULTNOMAH COUNTY RESPONSIBILITIES:

- 1. Provided the County receives from Troutdale the requisite funds under Section II. B., the County will arrange and manage a contract for the installation of the needed water line as part of its Beaver Creek Bridge Rehabilitation project.
- 2. The liaison for the County under this Agreement will be Robert Maestre (or his designee), at Multnomah County, 1600 SE 190th Ave., Portland OR 97233.

3. Upon receipt of the money under Section II. B.1, the County will draw on these funds to pay for performance of the water line work. Any and all costs the County incurs in the performance of the water line work portion of the Project will be subject to reimbursement from these funds. After the completion of the work done under the Project and the County's final acceptance of that work, the County shall refund to the City any excess remaining of the original \$140,000.00.
4. After completion of the Project and the waterline work, the County will coordinate with the City a mutually acceptable schedule and procedure for the City to conduct maintenance, repair, and renovation as necessary for the new waterline.

B. CITY OF TROUTDALE RESPONSIBILITIES:

1. Within 30 days of the signing of this agreement, the City shall provide \$140,000 to County for use by the County to cover all costs incurred by the County to construct and install the water line.
2. By August 22, 2006, the City shall provide the County a written confirmation signed by the City's head procurement official establishing that the contracting for the work with the County as provided herein complies with applicable laws and City purchasing rules.
3. The City shall provide consulting engineering and inspection services for the water line installation to the County during the project.
4. The liaison for the City shall be James E. Galloway (or his designee), at the City of Troutdale, 342 SW 4th Street, Troutdale OR 97060-2099.
5. Upon completion of the water line construction and installation, the City will be responsible for the operation and maintenance of the water line pursuant to the schedule and procedure as provided at Section II. A. 4. above.

C. JOINT RESPONSIBILITIES:

The parties' representatives shall meet within one week of the execution of this agreement to finalize engineering and construction sequencing plans. During construction, should the City and the County agree in writing to changes in the field that increase the cost of the waterline installation above \$140,000, the City shall pay the County for those additional agreed costs. The County will not change the design or construction of this water line without the City's written consent.

D. EARLY TERMINATION:

The parties may terminate this Agreement by mutual written consent five (5) days prior to the issuance of the County's construction contract. If this Agreement is terminated as provided herein, the parties shall be responsible for their own costs and any unspent or otherwise non-obligated funds in the County's possession as provided under Section II. B. herein shall be refunded to the City.

E. DISPUTE RESOLUTION:

In the case of a dispute under this Agreement, the Parties shall attempt to resolve the dispute informally. If the dispute cannot be resolved through this process, the Parties shall submit their dispute to intergovernmental arbitration pursuant to ORS 190.710 through 190.800. Each of the Parties shall bear its own expense of attorney fees and arbitration.

F. AMENDMENT:

This Agreement may be amended by mutual written agreement of the Parties. Amendments shall be valid only when reduced to writing, approved as required, and signed.

G. TERM:

This Agreement shall be effective upon the date that it has been executed by all Parties and shall remain in effect for two years from that date.

H. INDEMNIFICATION:

Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, each Party shall indemnify, defend, and hold harmless each of the other Parties from and against all liability, loss, and costs arising out of or resulting from acts of that Party, its officers, employees, and agents in the performance of this agreement.

I. INSURANCE:

Each Party shall each be responsible for providing workers' compensation insurance as required by law. No Party shall be required to provide or show proof of any other insurance coverage.

J. ADHERENCE TO LAW:

Each Party shall comply with all federal, state, and local laws and ordinances applicable to this agreement.

K. NON-DISCRIMINATION:

Each Party shall comply with all requirements of federal and state civil rights and rehabilitations statutes and local nondiscrimination ordinances. (See MCC 15.340-15.347)

L. ACCESS TO RECORDS:

Each Party shall have access to the books, documents, and other records of the others which are related to this Agreement for the purpose of examination, copying and audits, unless otherwise limited by law.

M. SUBCONTRACTS AND ASSIGNMENTS:

No Party will subcontract or assign any part of this Agreement without the written consent of the other Parties, except that the County may contract with its public works contractor for the actual water line installation.

N. ENTIRETY OF AGREEMENT:

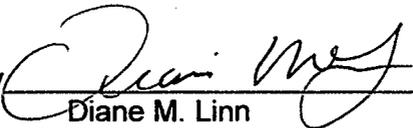
This Agreement constitutes the entire Agreement between the Parties. No waiver, consent, modification, or changes of the terms of the Agreement shall bind either party unless made in writing and signed by all Parties.

O. SEVERABILITY:

The Parties agree that if any terms or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be constructed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

MULTNOMAH COUNTY, OREGON

CITY OF TROUTDALE

By 
Diane M. Linn

By _____

Title Multnomah County Chair

Title _____

Date: 08.17.06

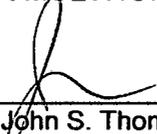
Date: _____

Reviewed:

Approved as to form:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY

CITY ATTORNEY FOR
CITY OF TROUTDALE, OREGON

By 
John S. Thomas, Deputy County Attorney

Marnie Allen, City Attorney

Date: 8/10/06

Date: _____

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-2 DATE 08.17.06
DEBORAH L. BOGSTAD, BOARD CLERK

1

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

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

MEETING DATE: 8-17-06

SUBJECT: Warm Springs Tribe Casino

AGENDA NUMBER OR TOPIC:

FOR: _____ AGAINST: THE ABOVE AGENDA ITEM

NAME: Angie Moore

ADDRESS: 7180 SW Gable Parkway

CITY/STATE/ZIP: Portland, OR

PHONE: DAYS: 503 292 2093 EVES: 503 292 2093

EMAIL: _____ FAX: _____

SPECIFIC ISSUE: CASCADE LOCKS CASINO

WRITTEN TESTIMONY:

IF YOU WISH TO ADDRESS THE BOARD:

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

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

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

Angelique Gremillion Moore
7180 SW Gable Parkway
Portland, Oregon 97225

Multnomah County Commissioners
501 SE Hawthorne Boulevard
Portland, Oregon

Dear Commissioners

I would like to thank the commission for your four letters sent to the Department of Interior expressing your opposition to the huge proposed casino at Cascade Locks. I am grateful for your keen vision in recognizing the need to protect this amazing resource.

I am very concerned about the impact the proposed Warm Spring Casino will have on our beautiful Columbia River Gorge. Located as it is in the very heart of the Gorge, the town of Cascade Locks is surrounded by sensitive habitat. Nearby are salmon streams, osprey nesting sites and trails that showcase some of the wonderful wildflowers unique to our area.

Although located in an urban area the proposed 25 acre building site with another 35 acres in parking will have an effect that reaches far beyond the urban boundry of Cascade Locks.

This casino is being sited in Cascade Locks to reach the Portland/Vancouver market. The proponents of this casino believe that Portland area residents will travel the 35 miles to Cascade Locks to gamble. They believe they will attract about 3 million visitors a year. These 3 million visitors will have an enormous negative impact on traffic and air quality. The lights from the 35 acres of parking and the 25 acres of buildings will radically alter the night views for miles around Cascade Locks. Air pollution, water pollution, traffic congestion and light pollution-these are all very valid reasons not to allow this casino to be sited within the National Scenic Area.

I believe that the casino belongs outside the Gorge.

It could be placed close to Hy 26 on the Warm Spring Indian Reservation. The Bend/Redmond area has and is still growing rapidly and Hy. 26 is a major conduit for traffic between Portland and Bend.

I thank you for the opportunity to speak today and for opposing a casino in the gorge.

Thank you for your time and attention.

Angelique Moore

#2

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 8.17.06

SUBJECT: Warm Springs Tribal Casino Proposal

AGENDA NUMBER OR TOPIC: _____

FOR: _____ AGAINST: X THE ABOVE AGENDA ITEM

NAME: AUBREY RUSSELL

ADDRESS: 2741 SW OLD ORCHARD RD.

CITY/STATE/ZIP: PORTLAND OR 97201

PHONE: DAYS: 503 295 1893 EVES: 503 295 1893

EMAIL: russellchapman@comcast.net FAX: _____

SPECIFIC ISSUE: _____

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

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

#3

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 8/17/06

SUBJECT: THE VIEW POINT INN

AGENDA NUMBER OR TOPIC: _____

FOR: _____ AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Geoff Thompson

ADDRESS: 40301 E. CREEK MT RD

CITY/STATE/ZIP: Corbett, OR 97099

PHONE: _____

DAYS: 503-695-5811

EVES: _____

EMAIL: _____

FAX: _____

SPECIFIC ISSUE: _____

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

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4

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 8/17/06

SUBJECT: The View Point Inn

AGENDA NUMBER OR TOPIC: _____

FOR: AGAINST: THE ABOVE AGENDA ITEM

NAME: Angelo Simione

ADDRESS: 40301 E. Larch Mountain Road

CITY/STATE/ZIP: Corbett, Oregon

PHONE: _____ DAYS: (503) 695-5811 EVES: same

EMAIL: ViewPointInn@aol.com FAX: (503) 695-5818

SPECIFIC ISSUE: expedite hearing 21 days after application

for The View Point Inn is deemed complete.

WRITTEN TESTIMONY: _____

sec. 6-1510 Board rules — request vote.

sec. 6 10-3 (page 13) Charter (to request direction to staff)

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

BOGSTAD Deborah L

From: BOGSTAD Deborah L
Sent: Wednesday, August 16, 2006 3:06 PM
To: Diane Linn; Lisa Naito; Lonnie Roberts; Maria ROJO DE STEFFEY; Serena Cruz; Andy Smith; April FERNANDES; Carol WESSINGER; Chuck Martin; Darcy Miles; David MARTINEZ; Delma FARRELL; Gary Walker; Iris BELL; Judith Shiprack; Kathryn GORDON; Kristen WEST; Lily NOCHES; Mary Carroll; Matt LIEUALLEN; Matthew LASHUA; Mike BEARD; Rob FUSSELL; Tara BOWEN-BIGGS; Terri Naito; Thomas BRUNER
Cc: SOWLE Agnes; DUFFY Sandra N
Subject: FW: Viewpoint Inn request for time on the agenda tomorrow
Importance: High

Commissioners, see email below in response to the fax Geoff Thompson and Angelo Simione sent you and me Monday afternoon and the phone call I received from Angelo this morning asking for the Board's response. I left a phone message and emailed them this information. They will be attending the Board meeting tomorrow morning.

Deb Bogstad, Board Clerk
Multnomah County Commissioners
501 SE Hawthorne Boulevard, Suite 600
Portland, Oregon 97214-3587
(503) 988-3277 phone
(503) 988-3013 fax
deborah.l.bogstad@co.multnomah.or.us
<http://www.co.multnomah.or.us/cc/index.shtml>

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

From: DUFFY Sandra N
Sent: Wednesday, August 16, 2006 2:36 PM
To: BOGSTAD Deborah L; FARMER Stuart L
Cc: LASHUA Matthew; SCHILLING Karen C
Subject: Viewpoint Inn request for time on the agenda tomorrow

Deb:

I have the fax you gave me that you received from Angelo Simione asking whether Viewpoint Inn can get a place on the agenda tomorrow.

Mr. Simione wants to ask the Board to direct the Land Use Planning Division to set a hearing on the Viewpoint Inn conditional use application at or near 30 days after the application is deemed complete. LUP Director, Karen Schilling has informed Mr. Simione that the hearing would be set within 60 days after the application is deemed complete.

Section 6 of Resolution No 05-101 provides for a procedure to place an item on the agenda that was not on the agenda notice. At least three Commissioners must vote in favor of a motion to immediately consider the matter. For the matter to be adopted, all the Commissioners present must vote in favor of the matter.

8/16/2006

However, the County Charter, Section 6.10(3) indicates that the Chair has the sole authority to direct administrative officers or employees of the county, so there is a question as to whether this is proper subject matter for Board action. Agnes Sowle, County Counsel, can address that if there is a successful vote to consider this matter.

Sandy

BOGSTAD Deborah L

From: BOGSTAD Deborah L
Sent: Wednesday, August 16, 2006 2:52 PM
To: 'Angelo Simione [ViewpointInn@aol.com]'
Subject: FW: Viewpoint Inn request for time on the agenda tomorrow
Importance: High

Angelo, see below.

Deb Bogstad, Board Clerk
Multnomah County Commissioners
501 SE Hawthorne Boulevard, Suite 600
Portland, Oregon 97214-3587
(503) 988-3277 phone
(503) 988-3013 fax
deborah.l.bogstad@co.multnomah.or.us
<http://www.co.multnomah.or.us/cc/index.shtml>

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Sandy

8/16/2006

BOGSTAD Deborah L

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To: BOGSTAD Deborah L; FARMER Stuart L
Cc: LASHUA Matthew; SCHILLING Karen C
Subject: Viewpoint Inn request for time on the agenda tomorrow

Deb:

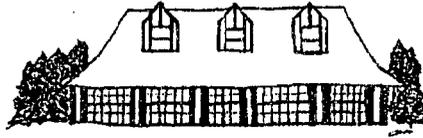
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Sandy



The Viewpoint Inn

Attention:

Deb Bogstad

Hi Deb —

We have sent this request to CHAIR Linn and all Commissioners. Maybe you could check on their decision & place this item on August 17, '06 agenda?

Thanks!



The Viewpoint Inn

URGENT REQUEST

FOR CHAIR DIANE LINN,

**COMMISSIONER MARIA
ROJO DE STEFFY,**

**COMMISSIONER LISA
NAITO,**

**COMMISSIONER SERENA
CRUZ,**

**COMMISSIONER LONNIE
ROBERTS**

August 14, 2006

Chair Linn and Commissioners:

**You can request a "special hearing" within 30 days after
The View Point Inn application is deemed complete.**

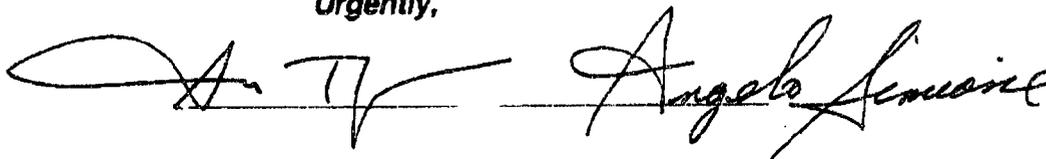
The director of Multnomah County's land use planning department told us that the only way The View Point Inn's conditional use permit can be expedited is for the Commissioners to request a "special hearing" which would happen 30 days after our application is deemed complete.

No ones hands are tied in this decision. It is something that can be brought to the floor at a Board Meeting and voted on by all of you. You can place it in your agenda for THIS Thursday and vote on it.

Geoff and I wanted to give you all a heads up on this and would like you to consider placing this request on the agenda for this coming Thursday, August 17, 2006.

Reason: ***Continuing to prolong or delay opening The View Point Inn is creating a hardship for the Inn. The process itself began three years ago and the Inn has gone through two consecutive winters with no heat. It needs a new roof and chimney. Continuing to not allow us to advertise and prepare for business creates even more hardship placing undue and unnecessary financial burden on an already most egregious and harmful situation.***

Urgently,



Geoff Thompson & Angelo Simione



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-1 DATE 08-17-06
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only

Meeting Date: 08/17/06
Agenda Item #: R-1
Est. Start Time: 9:30 AM
Date Submitted: 07/21/06

BUDGET MODIFICATION: DCHS -01

Budget Modification DCHS-01 Reclassifying Four Positions in the Aging and Disabilities Services Division, as Determined by the Class/Comp Unit of Central Human Resources, as Part of a Reorganization of the Long
Agenda Title: Term Care Management Structure

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

Date Requested: August 17, 2006 Time Requested: 3 mins
Department: Dept. of County Human Services Division: Aging & Disabilities
Contact(s): Jana McLellan
Phone: 503 988-3691 Ext. 25390 I/O Address: 167/620
Presenter(s): Mary Shortall/Jennifer Huntsman

General Information

1. What action are you requesting from the Board?

The Department of County Human Services recommends approval of budget modification DCHS-01 reclassifying four positions in Aging and Disabilities Services Division Program Offer 25023A, as part of a reorganization of the Long Term Care management structure.

2. Please provide sufficient background information for the Board and the public to understand this issue.

This modification reflects a Class/Comp decision to reclassify four positions requested by Division Management, as part of a reorganization of Aging & Disabilities Services Long Term Care management structure. This reorganization will provide improved management support and oversight of branch operations by assigning a Program Manager 1 to each office and an Administrative Analyst Senior to the Long Term Care Program Manager Lead (Program Manager 2). A total of four Program Manager 1 positions are created by downgrading two Program Manager 2 positions, upgrading 1 Program Supervisor position, and a new position authorized in program

offer 25023A. In addition, a vacant support position is converted to a higher classification. Class/Comp analyzed the duties of these positions and determined that Program Manager 1 and Administrative Analyst Senior were the best fit.

Background information: Several factors over time prompted the need to reevaluate the management structure within the Long Term Care program. State budget cuts over the past few years have resulted in program eliminations, centralized DHS functions, significant staff reductions and office consolidations (10 office locations have been reduced to 5 locations). Aging & Disabilities Services Division began discussions of reorganization when it eliminated two management positions and 7 key program support positions in lieu of direct client service positions in July and October of 2005. Managers and supervisors took on additional responsibilities to cover these functions, including nursing facility supervision, administrative hearings for Medicare eligibility, program policy, quality review, and training, during a time when there was a growing emphasis on increased documentation and quality control for federal purposes. Staff feedback was provided through a joint labor management survey, and revealed the need for increased management visibility and support in branch offices. This was also evident when reviewing the span of supervision compared to State staffing standards.

Reorganization overview: The aim of this reorganization is to bring management positions in line with the needs of clients, employees, and a changing organization. This new management structure provides greater staff support and supervisory technical assistance with emphasis on quality, and is less costly in the long term. It realigns management positions with operational responsibilities and needs. This reorganization has evolved over time and is described below in phases:

Phase I: July - October 2005 - *Completed*

Program support and management reductions: Hearing specialists, quality reviewers, policy specialist, training coordinator, Long Term Care Program Manager Senior, Nursing Facility Program Manager 1.

Phase II: March 2006 - *Completed*

Established new classification for Long Term Care Lead (Program Manager 2) and hired incumbent.

Phase III: April 2006 - *In Process*

Optimal management structure identified; Branch Manager job descriptions developed, reviewed and classified by Class/Comp (Program Manager 1).

Phase IV: April 2006 - *In Process*

Determined distribution of management positions for each branch based on staffing and identified support needs; Support job description developed, reviewed and classified by Class/Comp which determined the best classification to be Administrative Analyst Senior.

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

Current year personnel costs in the Aging & Disabilities Services Division Long Term Care program 25023A are increased by \$23,755. This includes:

- 2 reclassified positions not yet reflected in the budget [704442, 707505];
- 2 reclassified positions currently reflected in the budget [707751 and 703900].

The increased cost is offset by reductions in Supply and Travel & Training budgets across the Long Term Care branches, \$17,148 total and \$6,607 total respectively. The LTC program has historically under spent in these areas.

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

Local 88 represented employees have a contractual right to appeal and arbitrate the outcome of a reclassification request, which would include Board action to disapprove the request. It is the policy of Multnomah County to make all employment decisions without regard to race, religion, color,

national origin, sex, age marital status, disability, political affiliations, sexual orientation, or any other non-merit factor.

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

N/A

ATTACHMENT A

Budget Modification

If the request is a **Budget Modification**, please answer all of the following in detail:

- **What revenue is being changed and why?**
N/A
- **What budgets are increased/decreased?**
Insurance Risk Fund budget is increased by \$1,032.
- **What do the changes accomplish?**
Approval of four classification decisions from Class/Comp and implementation of the Long Term Care management reorganization.
- **Do any personnel actions result from this budget modification? Explain.**
Reclassification of 1.0 FTE Office Assistant 2 to Administrative Analyst Senior;
Reclassification of 1.0 FTE Program Supervisor to Program Manager 1;
Reclassification of 2.0 FTE Program Manager 2 to Program Manager 1.
- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**
By current TITLE XIX funding.
- **Is the revenue one-time-only in nature?**
No
- **If a grant, what period does the grant cover?**
N/A
- **If a grant, when the grant expires, what are funding plans?**
N/A

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

ATTACHMENT B

BUDGET MODIFICATION: DCHS - 01

Required Signatures

**Department/
Agency Director:**

Pat Surface

Date: 06/19/06

Budget Analyst:

Michael D. Gaspin

Date: 07/20/06

Department HR:

Jennifer

Date: 06/15/06

Countywide HR:

Date: _____

Budget Modification or Amendment ID: **DCHS-01**

EXPENDITURES & REVENUES

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 07

Line No.	Fund Center	Fund Code	Func. Area	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
				Program Offer	Cost Center	WBS Element						
1	30-55	26090	40	25023A		ADSDIVLTCWDXIX	60000		19,696	19,696		Base [704442]
2	30-55	26090	40	25023A		ADSDIVLTCWDXIX	60130		6,321	6,321		Fringe
3	30-55	26090	40	25023A		ADSDIVLTCWDXIX	60140		1,182	1,182		Insurance
4	30-55	26090	40	25023A		ADSDIVLTCWDXIX	60240		(2,574)	(2,574)		Supplies
5	30-55	26090	40	25023A		ADSDIVLTCWDXIX	60260		(862)	(862)		Travel & Training
6	30-55	26090	40	25023A		ADSDIVLTCWDXIX	60350		585	585		Central Indirect
7	30-55	26090	40	25023A		ADSDIVLTCWDXIX	60355		228	228		Dept Indirect
8	30-55	26090	40	25023A		ADSDIVLTCWDXIX	50190		(24,576)	(24,576)		IG-OP Fed Thu State
9												
10												
11	30-55	26090	40	25023A		ADSDIVLTCSEDXIX	60000		(2,494)	(2,494)		Base [707505]
12	30-55	26090	40	25023A		ADSDIVLTCSEDXIX	60130		(800)	(800)		Fringe
13	30-55	26090	40	25023A		ADSDIVLTCSEDXIX	60140		(150)	(150)		Insurance
14	30-55	26090	40	25023A		ADSDIVLTCSEDXIX	60240		(4,068)	(4,068)		Supplies
15	30-55	26090	40	25023A		ADSDIVLTCSEDXIX	60260		(1,411)	(1,411)		Travel & Training
16	30-55	26090	40	25023A		ADSDIVLTCSEDXIX	60350		(220)	(220)		Central Indirect
17	30-55	26090	40	25023A		ADSDIVLTCSEDXIX	60355		(86)	(86)		Dept Indirect
18	30-55	26090	40	25023A		ADSDIVLTCSEDXIX	50190		9,229	9,229		IG-OP Fed Thu State
19												
20												
21												
22												
23												
24	30-55	26090	40	25023A		ADSDIVLTCMCXIX	60240		(4,618)	(4,618)		Supplies
25	30-55	26090	40	25023A		ADSDIVLTCMCXIX	60260		(1,438)	(1,438)		Travel & Training
26	30-55	26090	40	25023A		ADSDIVLTCMCXIX	60350		(149)	(149)		Central Indirect
27	30-55	26090	40	25023A		ADSDIVLTCMCXIX	60355		(58)	(58)		Dept Indirect
28	30-55	26090	40	25023A		ADSDIVLTCMCXIX	50190		6,263	6,263		IG-OP Fed Thu State
29												
									0	0	0	Total - Page 1
									0	0	0	GRAND TOTAL

Budget Modification or Amendment ID: DCHS-01

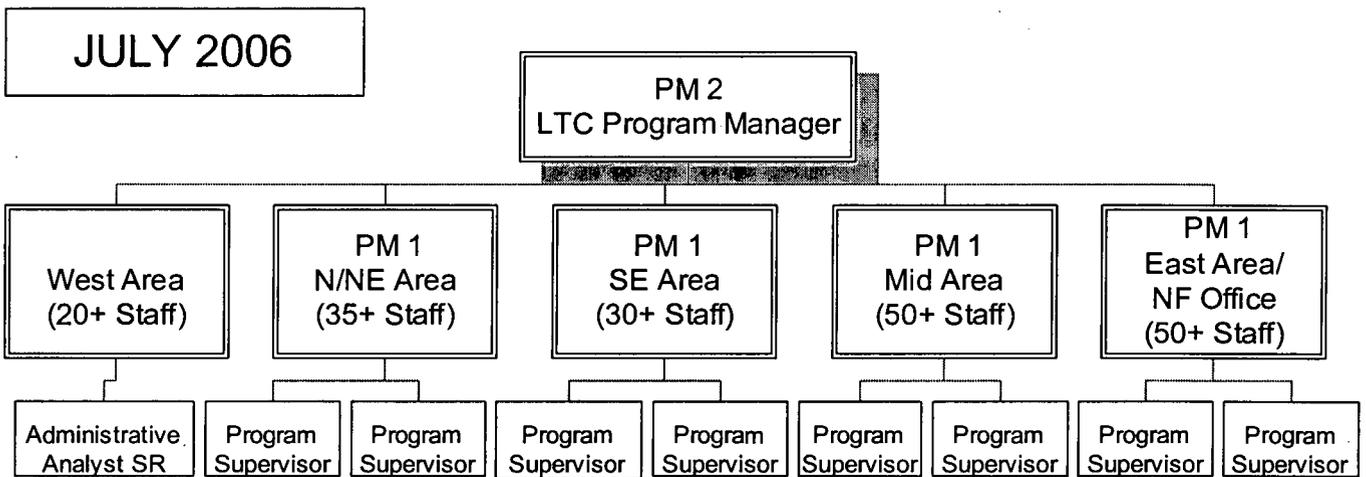
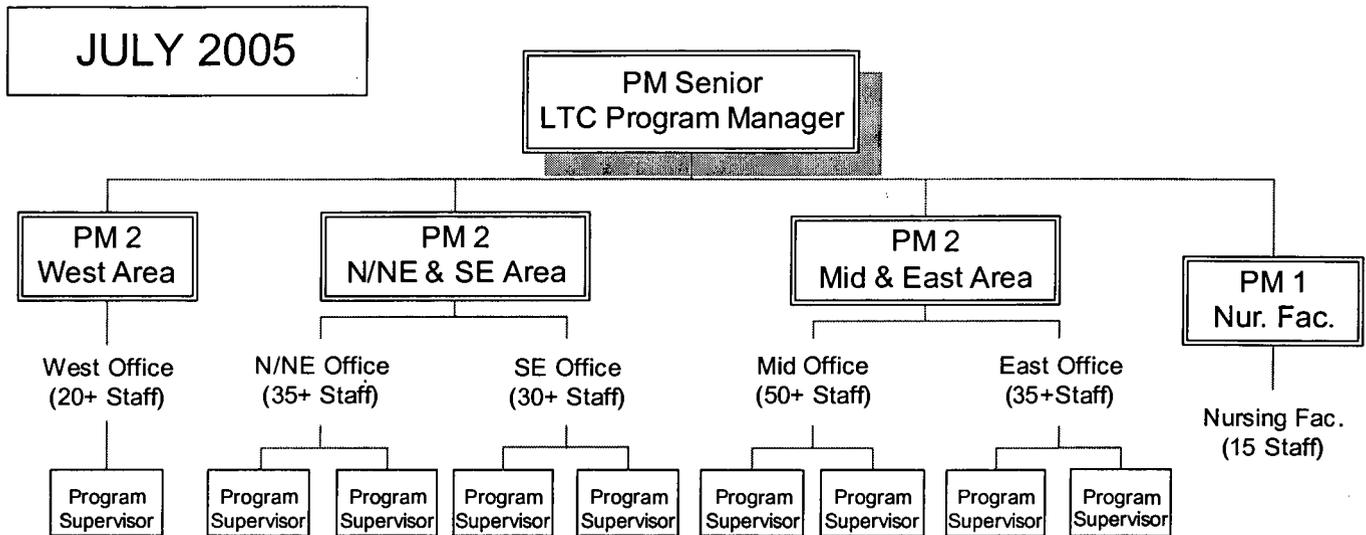
EXPENDITURES & REVENUES

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 07

Line No.	Fund Center	Fund Code	Func. Area	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
				Program Offer	Cost Center	WBS Element						
30												
31												
32												
33	30-55	26090	40	25023A		ADSDIVLTCEDXIX	60240		(2,832)	(2,832)		Supplies
34	30-55	26090	40	25023A		ADSDIVLTCEDXIX	60260		(1,406)	(1,406)		Travel & Training
35	30-55	26090	40	25023A		ADSDIVLTCEDXIX	60350		(104)	(104)		Central Indirect
36	30-55	26090	40	25023A		ADSDIVLTCEDXIX	60355		(41)	(41)		Dept Indirect
37	30-55	26090	40	25023A		ADSDIVLTCEDXIX	50190		4,383	4,383		IG-OP Fed Thu State
38												
39												
40												
41												
42												
43	30-55	26090	40	25023A		ADSDIVLTCNNEDXIX	60240		(3,056)	(3,056)		Supplies
44	30-55	26090	40	25023A		ADSDIVLTCNNEDXIX	60260		(1,490)	(1,490)		Travel & Training
45	30-55	26090	40	25023A		ADSDIVLTCNNEDXIX	60350		(112)	(112)		Central Indirect
46	30-55	26090	40	25023A		ADSDIVLTCNNEDXIX	60355		(43)	(43)		Dept Indirect
47	30-55	26090	40	25023A		ADSDIVLTCNNEDXIX	50190		4,701	4,701		IG-OP Fed Thu State
48												
49												
50	72-10	3500	0020		705210		50316		(1,032)	(1,032)		Insurance Revenue
51	72-10	3500	0020		705210		60330		1,032	1,032		Claims Paid
52												
53												
54												
55												
56												
57												
58												
									0		0	Total - Page 2
									0		0	GRAND TOTAL

Aging and Disability Services – Long Term Care Reorganization



Rationale for the modifications in staffing above:

- State budget cuts since 2003 have primarily been in the ADS- LTC Program. With the elimination of major state programs and services in LTC, ADS lost significant numbers of positions in LTC between 2003 and the most recent cuts in October, 2005.
- The ADS Medicaid services and offices expanded significantly in 1999 when the Disability Services Office was brought into ADS. At that time 5 areas were created within the county and 5 Area Managers (PM 2s' were created as well as a manger over them at a PM Senior level). In 2003 to address the first round of state cuts we eliminated two PM 2s' and went to three areas (see the model above for 2005).
- A survey conducted with the mutual agreement of Local 88 and ADS management last summer 2005 identified significant staff concerns following the first round of cuts about the unavailability of managers in the office to answer client and policy questions. ADS had staffed at a much higher ratio of managers to direct services staff. However, with this new information and several meetings with Union representatives we committed to changing the structure to provide better manager/supervisory support.

- In October 2005, the significant loss of funding to Medicaid services once again required significant lay offs. The Hearings positions, the Quality Assurance Unit, the Policy position and the Training positions were eliminated. We added these responsibilities to the Program Managers and the Supervisors in the local offices. By ensuring that each office has an on-site manager, we hope to provide more hands on technical assistance for staff. Note: this model had worked previously prior to the addition of the state disability services staff.

These changes have been occurring in an iterative fashion as illustrated below:

Phase I: July – October 2005 - **Completed**

Program support and management reductions

Hearings, Quality, Policy, Training, LTC Lead Program Manager Senior, Nursing Facility Program Manager 1

Phase II: March 2006 - **Completed**

Established new classification for LTC Lead (Program Manager 2) and hired manager

Phase III: April 2006

Optimal management structure identified

Branch manager job descriptions developed, reviewed and classified by Class/Comp (Program Manager 1)

Phase IV: April 2006

Determined distribution of management positions for each branch based on staffing and identified support needs; Support job description developed, reviewed and classified by Class/Comp as Administrative Analyst Senior.



**MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST**

Board Clerk Use Only

Meeting Date: 08/17/06
 Agenda Item #: R-2
 Est. Start Time: 9:33 AM
 Date Submitted: 07/24/06

BUDGET MODIFICATION: -

RESOLUTION Appointing Rex Surface, Patrice Botsford, and Karl Brimmer as County Financial Assistance Administrators for the State of Oregon Department of Human Services, 2005-2007 County Financial Assistance Intergovernmental Revenue Agreement 0506026 (State #113012)

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

Date Requested:	<u>August 17, 2006</u>	Time Requested:	<u>2 mins</u>
Department:	<u>County Human Services</u>	Division:	<u>Business Services</u>
Contact(s):	<u>Jana McLellan</u>		
Phone:	<u>(503) 988-3691</u>	Ext.	<u>25390</u>
		I/O Address:	<u>167/1/620</u>
Presenter(s):	<u>Jana McLellan and Rex Surface</u>		

General Information

1. What action are you requesting from the Board?

The Department of County Human Services requests the Board of County Commissioners approval to change the secondary signature authority for the County Financial Assistance Agreement from Alan E. Stickel to include Patrice Botsford, Developmental Disabilities Services Division Interim Director, and Karl Brimmer, Mental Health and Addiction Services Division Director. Rex Surface, DCHS Interim Director, will remain the primary signature authority.

2. Please provide sufficient background information for the Board and the public to understand this issue.

Section E.5 of the County Financial Assistance Agreement requires the County by resolution to appoint an officer to administer the Agreement (County Financial Assistance Administrator) and to authorize the County Financial Assistance Administrator to amend the Assistance Award and Agreement and Service Element Prior Authorization on behalf of the County. Further, the County Financial Assistance Administrator may enable the disbursement of financial assistance through submission and modification of Client Prior Authorizations and Provider Prior Authorizations and

authorize providers to submit disbursement claims. (Rex Surface and Alan E. Stickel were previously approved by resolution 05-152) It is important to have a secondary administrator assigned in the department due to ongoing changes within the organization.

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

No Fiscal Impact

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

No legal/ policy issues involved here.

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

None.

Required Signatures

**Department/
Agency Director:**

Rex Surface

Date: 07/21/06

Budget Analyst:

Date:

Department HR:

Date:

Countywide HR:

Date:

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Appointing Rex Surface, Patrice Botsford, and Karl Brimner as County Financial Assistance Administrators for the State of Oregon Department of Human Services, 2005-2007 County Financial Assistance Intergovernmental Revenue Agreement 0506026 (State #113012)

The Multnomah County Board of Commissioners Finds:

- a. The Multnomah County Department of County Human Services provides mental health, alcohol and drug and developmentally disabled treatment services to citizens of Multnomah County
- b. The County has requested financial assistance from the State of Oregon Department of Human Services to operate or contract for the operation of its community mental health, alcohol and drug, and developmental disabilities program.
- c. The State of Oregon Department of Human Services is willing, upon the terms and conditions of the 2005-2007 Financial Assistance Agreement (Agreement), to provide such financial assistance (Assistance Award) to the County. The Agreement was approved by the County on July 14, 2005.
- d. Section E.5 of the Agreement requires the County by resolution to appoint an officer to administer the Agreement (County Financial Assistance Administrator) and to authorize the County Financial Assistance Administrator to amend the Assistance Award and Agreement and Service Element Prior Authorization on behalf of the County. Further, the County Financial Assistance Administrator may enable the disbursement of financial assistance through submission and modification of Client Prior Authorizations and Provider Prior Authorizations and authorize providers to submit disbursement claims.

The Multnomah County Board of Commissioners Resolves:

1. The Board appoints Rex Surface, Patrice Botsford, and Karl Brimner as the County Financial Assistance Administrator and authorizes Rex Surface Patrice Botsford, and Karl Brimner to amend the Assistance Award on behalf of the County, by execution and delivery of amendments to the Agreement in accordance with Section E.5.

ADOPTED this 17th day of August, 2006.

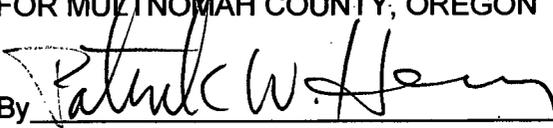
BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By


Patrick W. Henry, Assistant County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 06-145

Appointing Rex Surface, Patrice Botsford, and Karl Brimner as County Financial Assistance Administrators for the State of Oregon Department of Human Services, 2005-2007 County Financial Assistance Intergovernmental Revenue Agreement 0506026 (State #113012)

The Multnomah County Board of Commissioners Finds:

- a. The Multnomah County Department of County Human Services provides mental health, alcohol and drug and developmentally disabled treatment services to citizens of Multnomah County
- b. The County has requested financial assistance from the State of Oregon Department of Human Services to operate or contract for the operation of its community mental health, alcohol and drug, and developmental disabilities program.
- c. The State of Oregon Department of Human Services is willing, upon the terms and conditions of the 2005-2007 Financial Assistance Agreement (Agreement), to provide such financial assistance (Assistance Award) to the County. The Agreement was approved by the County on July 14, 2005.
- d. Section E.5 of the Agreement requires the County by resolution to appoint an officer to administer the Agreement (County Financial Assistance Administrator) and to authorize the County Financial Assistance Administrator to amend the Assistance Award and Agreement and Service Element Prior Authorization on behalf of the County. Further, the County Financial Assistance Administrator may enable the disbursement of financial assistance through submission and modification of Client Prior Authorizations and Provider Prior Authorizations and authorize providers to submit disbursement claims.

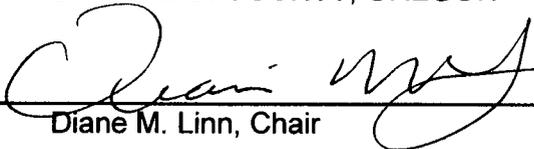
The Multnomah County Board of Commissioners Resolves:

1. The Board appoints Rex Surface, Patrice Botsford, and Karl Brimner as the County Financial Assistance Administrator and authorizes Rex Surface Patrice Botsford, and Karl Brimner to amend the Assistance Award on behalf of the County, by execution and delivery of amendments to the Agreement in accordance with Section E.5.

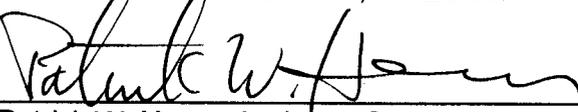
ADOPTED this 17th day of August, 2006.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Diane M. Linn, Chair

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Patrick W. Henry, Assistant County Attorney



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-3 DATE 08/17/06
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only

Meeting Date: 08/17/06
Agenda Item #: R-3
Est. Start Time: 9:35 AM
Date Submitted: 07/31/06

BUDGET MODIFICATION: HD - 01

Budget Modification HD-01 Appropriating \$1,535,042 for the Homeless
Agenda Title: Mobile Clinic in the Health Department

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

Date Requested:	<u>August 17, 2006</u>	Time Requested:	<u>5 minutes</u>
Department:	<u>Health Dept.</u>	Division:	<u>Integrated Clinical Services</u>
Contact(s):	<u>Angela Burdine, Budget Manager</u>		
Phone:	<u>503 988-3663</u>	Ext.	<u>26457</u>
		I/O Address:	<u>167/210</u>
Presenter(s):	<u>Kim Tierney, Westside Health Clinic Manager</u>		

General Information

1. What action are you requesting from the Board?

Requesting approval of appropriation of \$532,025 in grant revenue from the Homeless Families Van Grant as well as \$1,003,017 additional visit revenue projected to be generated from this project. This will also include approval of 10.10 FTE to provide services to patients associated with this project.

2. Please provide sufficient background information for the Board and the public to understand this issue.

On March 23, 2006, the Board approved a bud mod appropriating funds from the Health Care for the Homeless program to purchase a Mobile Medical Van. There was also approval of additional funds from general fund contingency to assist with the purchase. However, due to the timing of the FY07 Budget preparation and the approval of the FY06 bud modification, we were unable to include the budget appropriation of the continuation of this program. The Mobile Medical Van is currently bringing services to Homeless Families throughout Multnomah County. The program is operating in coordination with the Westside Health Clinic. The program delivers services consistent with the guidelines of the Health Care for the Homeless grant and will provide ongoing funding.

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

The Health Department's Primacy Care budget will increased by \$1,535,042 in FY 07. This is inclusive of \$532,025 grant funding and \$1,003,017 in projected fee for service revenue.

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

N/A

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

Friendly House, Harborlite, Portland Impact (Brentwood Darlington and Burnside locations), Albina Ministerial Alliance, and Human Solutions (East County and Mid County), Community Transition School and JOIN have all agreed to support this project with access to their facilities, water, electricity and space for the social workers and group conference area (as available).

ATTACHMENT A

Budget Modification

If the request is a **Budget Modification**, please answer all of the following in detail:

- What revenue is being changed and why?
The Health Departments Primary Care grant revenue appropriation will increase by \$532,025 and fee for service revenue will increase by \$1,003,017 in FY07.
- What budgets are increased/decreased?
The Health Departments Primary Care budget will increase by \$1,535,042 in FY 07.
- What do the changes accomplish?
The revenue allows for the operation of a medical van purchased in the spring of 2006. The van provided medical services to the homeless population of Multnomah County.
- Do any personnel actions result from this budget modification? Explain.
Increase Health Department FTE by;

Dental Assistant/EFDA	1.00	
Dental Hygienist	0.50	
Dentist	1.00	
Office Assistant 2	0.50	
Office Assistant/Senior	1.00	
Clinic Medical Assistant		1.00
Research/Evaluation Analyst 2		0.40
Social Worker	1.00	
Nurse Practitioner	0.50	
Community Health Nurse		0.90
Nutritionist	0.50	
Physician	1.00	
Health Operations Supervisor		0.80
- How will the county indirect, central finance and human resources and departmental overhead costs be covered?
Indirect is covered in revenue
- Is the revenue one-time-only in nature?
Grant revenue is ongoing
- If a grant, what period does the grant cover?
Ongoing
- If a grant, when the grant expires, what are funding plans?
Continuation dollars

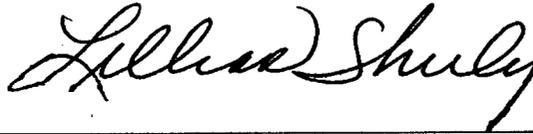
NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

ATTACHMENT B

BUDGET MODIFICATION: HD - 01

Required Signatures

**Department/
Agency Director:**



Date: 07/25/06

Budget Analyst:



Date: 07/31/06

Department HR:



Date: 07/21/06

Countywide HR:

Date: _____

Budget Modification ID: **HD-01****EXPENDITURES & REVENUES**

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 2007

Line No.	Fund Center	Fund Code	Func. Area	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
				Internal Order	Cost Center	WBS Element						
1	40-60	20620	30			4FA36-05-4-2	50170	(182,546)	(182,546)		FY 07 Grant Revenue	
2	40-60	20620	30			4FA36-05-4-2	60000	88,573	88,573			
3	40-60	20620	30			4FA36-05-4-2	60130	25,758	25,758			
4	40-60	20620	30			4FA36-05-4-2	60140	21,332	21,332			
5	40-60	20620	30			4FA36-05-4-2	60246	20,880	20,880			
6	40-60	20620	30			4FA36-05-4-2	60350	4,159	4,159			
7	40-60	20620	30			4FA36-05-4-2	60355	9,316	9,316			
8	40-60	20620	30			4FA36-05-4-2	60430	12,528	12,528			
9	40-60	20620	30			4FA36-06-4-2	50170	(119,770)	(119,770)		FY 07 Grant Revenue	
10	40-60	20620	30			4FA36-06-4-2	60000	59,898	59,898			
11	40-60	20620	30			4FA36-06-4-2	60130	17,418	17,418			
12	40-60	20620	30			4FA36-06-4-2	60140	14,426	14,426			
13	40-60	20620	30			4FA36-06-4-2	60246	14,120	14,120			
14	40-60	20620	30			4FA36-06-4-2	60350	1,678	1,678			
15	40-60	20620	30			4FA36-06-4-2	60355	3,758	3,758			
16	40-60	20620	30			4FA36-06-4-2	60430	8,472	8,472			
17	40-70	20602	30			4FA36-05-4-1	50170	(90,117)	(90,117)		FY 07 Grant Revenue	
18	40-70	20602	30			4FA36-05-4-1	60000	31,222	31,222			
19	40-70	20602	30			4FA36-05-4-1	60120	295	295			
20	40-70	20602	30			4FA36-05-4-1	60130	9,456	9,456			
21	40-70	20602	30			4FA36-05-4-1	60140	8,079	8,079			
22	40-70	20602	30			4FA36-05-4-1	60170	9,979	9,979			
23	40-70	20602	30			4FA36-05-4-1	60180	110	110			
24	40-70	20602	30			4FA36-05-4-1	60220	548	548			
25	40-70	20602	30			4FA36-05-4-1	60240	1,280	1,280			
26	40-70	20602	30			4FA36-05-4-1	60246	3,655	3,655			
27	40-70	20602	30			4FA36-05-4-1	60260	439	439			
28	40-70	20602	30			4FA36-05-4-1	60270	308	308			
29	40-70	20602	30			4FA36-05-4-1	60310	16,217	16,217			
									(8,529)	0	Total - Page 1	
									(2,854)	0	GRAND TOTAL	

Budget Modification ID: **HD-01****EXPENDITURES & REVENUES**

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 2007

Line No.	Fund Center	Fund Code	Func. Area	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
				Internal Order	Cost Center	WBS Element						
30	40-70	20602	30			4FA36-05-4-1	60350		2,053	2,053		
31	40-70	20602	30			4FA36-05-4-1	60355		4,599	4,599		
32	40-70	20602	30			4FA36-05-4-1	60370		1,038	1,038		
33	40-70	20602	30			4FA36-05-4-1	60430		0	0		
34	40-70	20602	30			4FA36-05-4-1	60460		839	839		
35	40-70	20602	30			4FA36-06-4-1	50170		(139,592)	(139,592)		FY 07 Grant Revenue
36	40-70	20602	30			4FA36-06-4-1	60000		48,363	48,363		
37	40-70	20602	30			4FA36-06-4-1	60120		457	457		
38	40-70	20602	30			4FA36-06-4-1	60130		14,647	14,647		
39	40-70	20602	30			4FA36-06-4-1	60140		12,515	12,515		
40	40-70	20602	30			4FA36-06-4-1	60170		15,457	15,457		
41	40-70	20602	30			4FA36-06-4-1	60180		170	170		
42	40-70	20602	30			4FA36-06-4-1	60220		849	849		
43	40-70	20602	30			4FA36-06-4-1	60240		1,982	1,982		
44	40-70	20602	30			4FA36-06-4-1	60246		5,663	5,663		
45	40-70	20602	30			4FA36-06-4-1	60260		679	679		
46	40-70	20602	30			4FA36-06-4-1	60270		478	478		
47	40-70	20602	30			4FA36-06-4-1	60310		25,120	25,120		
48	40-70	20602	30			4FA36-06-4-1	60350		3,181	3,181		
49	40-70	20602	30			4FA36-06-4-1	60355		7,124	7,124		
50	40-70	20602	30			4FA36-06-4-1	60370		1,608	1,608		
51	40-70	20602	30			4FA36-06-4-1	60430		0	0		
52	40-70	20602	30			4FA36-06-4-1	60460		1,299	1,299		
53	40-70	40140	30			47790-00-40140	50235		(5,600)	(5,600)		Patient Fees-3rd Party Reimbursement
54	40-70	40140	30			47790-00-40140	60000		1,940	1,940		
55	40-70	40140	30			47790-00-40140	60120		18	18		
56	40-70	40140	30			47790-00-40140	60130		588	588		
57	40-70	40140	30			47790-00-40140	60140		502	502		
58	40-70	40140	30			47790-00-40140	60170		620	620		
									6,597	0		Total - Page 2
									(2,854)	0		GRAND TOTAL

Budget Modification ID: **HD-01****EXPENDITURES & REVENUES**

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 2007

Line No.	Fund Center	Fund Code	Func. Area	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
				Internal Order	Cost Center	WBS Element						
59	40-70	40140	30			47790-00-40140	60180	7	7			
60	40-70	40140	30			47790-00-40140	60220	34	34			
61	40-70	40140	30			47790-00-40140	60240	80	80			
62	40-70	40140	30			47790-00-40140	60246	227	227			
63	40-70	40140	30			47790-00-40140	60260	27	27			
64	40-70	40140	30			47790-00-40140	60270	19	19			
65	40-70	40140	30			47790-00-40140	60310	1,008	1,008			
66	40-70	40140	30			47790-00-40140	60350	128	128			
67	40-70	40140	30			47790-00-40140	60355	286	286			
68	40-70	40140	30			47790-00-40140	60370	65	65			
69	40-70	40140	30			47790-00-40140	60430	0	0			
70	40-70	40140	30			47790-00-40140	60460	51	51			
71	40-70	26020	30			47790-00-26020	50236	(517,457)	(517,457)		Revenue from Medicaid	
72	40-70	26020	30			47790-00-26020	60000	179,279	179,279			
73	40-70	26020	30			47790-00-26020	60120	1,695	1,695			
74	40-70	26020	30			47790-00-26020	60130	54,293	54,293			
75	40-70	26020	30			47790-00-26020	60140	46,394	46,394			
76	40-70	26020	30			47790-00-26020	60170	57,298	57,298			
77	40-70	26020	30			47790-00-26020	60180	630	630			
78	40-70	26020	30			47790-00-26020	60220	3,148	3,148			
79	40-70	26020	30			47790-00-26020	60240	7,348	7,348			
80	40-70	26020	30			47790-00-26020	60246	20,988	20,988			
81	40-70	26020	30			47790-00-26020	60260	2,519	2,519			
82	40-70	26020	30			47790-00-26020	60270	1,771	1,771			
83	40-70	26020	30			47790-00-26020	60310	93,117	93,117			
84	40-70	26020	30			47790-00-26020	60350	11,790	11,790			
85	40-70	26020	30			47790-00-26020	60355	26,409	26,409			
86	40-70	26020	30			47790-00-26020	60370	5,961	5,961			
87	40-70	26020	30			47790-00-26020	60460	4,817	4,817			
									1,932	0	Total - Page 3	
									0	0	GRAND TOTAL	

Budget Modification ID: **HD-01****EXPENDITURES & REVENUES**

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 2007

Line No.	Fund Center	Fund Code	Func. Area	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
				Internal Order	Cost Center	WBS Element						
88	40-70	26030	30			47790-00-26030	50236	(469,569)	(469,569)		Revenue from OMAP/Medicaid	
89	40-70	26030	30			47790-00-26030	60000	162,688	162,688			
90	40-70	26030	30			47790-00-26030	60120	1,538	1,538			
91	40-70	26030	30			47790-00-26030	60130	49,268	49,268			
92	40-70	26030	30			47790-00-26030	60140	42,100	42,100			
93	40-70	26030	30			47790-00-26030	60170	51,995	51,995			
94	40-70	26030	30			47790-00-26030	60180	571	571			
95	40-70	26030	30			47790-00-26030	60220	2,857	2,857			
96	40-70	26030	30			47790-00-26030	60240	6,668	6,668			
97	40-70	26030	30			47790-00-26030	60246	19,046	19,046			
98	40-70	26030	30			47790-00-26030	60260	2,286	2,286			
99	40-70	26030	30			47790-00-26030	60270	1,607	1,607			
100	40-70	26030	30			47790-00-26030	60310	84,500	84,500			
101	40-70	26030	30			47790-00-26030	60350	10,699	10,699			
102	40-70	26030	30			47790-00-26030	60355	23,965	23,965			
103	40-70	26030	30			47790-00-26030	60370	5,410	5,410			
104	40-70	26030	30			47790-00-26030	60460	4,371	4,371			
105	40-70	26080	30			47790-00-26080	50236	(10,391)	(10,391)		Medicare	
106	40-70	26080	30			47790-00-26080	60000	3,600	3,600			
107	40-70	26080	30			47790-00-26080	60120	34	34			
108	40-70	26080	30			47790-00-26080	60130	1,090	1,090			
109	40-70	26080	30			47790-00-26080	60140	931	931			
110	40-70	26080	30			47790-00-26080	60170	1,151	1,151			
111	40-70	26080	30			47790-00-26080	60180	13	13			
112	40-70	26080	30			47790-00-26080	60220	63	63			
113	40-70	26080	30			47790-00-26080	60240	147	147			
114	40-70	26080	30			47790-00-26080	60246	421	421			
115	40-70	26080	30			47790-00-26080	60260	51	51			
116	40-70	26080	30			47790-00-26080	60270	36	36			
									(2,854)	0	Total - Page 4	
									(2,854)	0	GRAND TOTAL	

Budget Modification ID: **HD-01****EXPENDITURES & REVENUES**

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 2007

Line No.	Fund Center	Fund Code	Func. Area	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
				Internal Order	Cost Center	WBS Element						
117	40-70	26080	30			47790-00-26080	60310	1,870	1,870			
118	40-70	26080	30			47790-00-26080	60350	237	237			
119	40-70	26080	30			47790-00-26080	60355	530	530			
120	40-70	26080	30			47790-00-26080	60370	120	120			
121	40-70	26080	30			47790-00-26080	60460	97	97			

ANNUALIZED PERSONNEL CHANGE

Change on a full year basis even though this action affects only a part of the fiscal year (FY).

						ANNUALIZED			
Fund	Job #	HR Org	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
1505	6346	61201	Dental Assistant/EFDA		1.00	31,028	9,023	12,460	52,511
1505	6348	61201	Dental Hygienist		0.50	29,222	8,498	7,121	44,841
1505	9390	61201	Dentist		1.00	88,221	25,655	16,177	130,053
1505	6001	64703	Office Assistant 2		0.50	14,220	4,135	6,146	24,501
1505	6002	64703	Office Assistant/Senior		1.00	34,973	11,223	12,716	58,912
1505	6012	64703	Clinic Medical Assistant		1.00	35,100	11,264	12,725	59,089
1505	6086	64703	Research/Evaluation Analyst 2		0.40	22,426	6,521	5,635	34,582
1505	6295	64703	Social Worker		1.00	49,861	14,500	13,684	78,045
1505	6314	64703	Nurse Practitioner		0.50	36,592	10,641	7,600	54,833
1505	6315	64703	Community Health Nurse		0.90	57,729	18,525	14,195	90,449
1505	6340	64703	Nutritionist		0.50	22,833	6,640	6,706	36,179
1505	9490	64703	Physician		1.00	117,696	34,226	18,093	170,015
1505	9692	64703	Health Operations Supervisor		0.80	35,662	10,371	12,761	58,794
									0
									0
TOTAL ANNUALIZED CHANGES					10.10	575,563	171,222	146,019	892,804

CURRENT YEAR PERSONNEL DOLLAR CHANGE

Calculate costs/savings that will take place in this FY; these should explain the actual dollar amounts being changed by this Bud Mod.

						CURRENT YEAR			
Fund	Job #	HR Org	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
1505	6346	61201	Dental Assistant/EFDA		1.00	31,028	9,023	12,460	52,511
1505	6348	61201	Dental Hygienist		0.50	29,222	8,498	7,121	44,841
1505	9390	61201	Dentist		1.00	88,221	25,655	16,177	130,053
1505	6001	64703	Office Assistant 2		0.50	14,220	4,135	6,146	24,501
1505	6002	64703	Office Assistant/Senior		1.00	34,973	11,223	12,716	58,912
1505	6012	64703	Clinic Medical Assistant		1.00	35,100	11,264	12,725	59,089
1505	6086	64703	Research/Evaluation Analyst 2		0.40	22,426	6,521	5,635	34,582
1505	6295	64703	Social Worker		1.00	49,861	14,500	13,684	78,045
1505	6314	64703	Nurse Practitioner		0.50	36,592	10,641	7,600	54,833
1505	6315	64703	Community Health Nurse		0.90	57,729	18,525	14,195	90,449
1505	6340	64703	Nutritionist		0.50	22,833	6,640	6,706	36,179
1505	9490	64703	Physician		1.00	117,696	34,226	18,093	170,015
1505	9692	64703	Health Operations Supervisor		0.80	35,662	10,371	12,761	58,794
									0
									0
TOTAL CURRENT FY CHANGES					10.10	575,563	171,222	146,019	892,804



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-4 DATE 08-17-06
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only

Meeting Date: 08/17/06
Agenda Item #: R-4
Est. Start Time: 9:38 AM
Date Submitted: 08/07/06

BUDGET MODIFICATION: HD - 02

**Budget Modification HD-02 Approving Five (5) Program Supervisor
Positions within the Health Service Clinics and Reclassifying Three (3)**
Agenda Title: Administrative Positions within the Department

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

Date Requested: <u>August 17, 2006</u>	Time Requested: <u>5 mins</u>
Department: <u>Health Dept.</u>	Division: <u>Various</u>
Contact(s): <u>Angela Burdine, Budget Manager</u>	
Phone: <u>503 988-3663</u> Ext. <u>26457</u>	I/O Address: <u>167/210</u>
Presenter(s): <u>Bob Saum, ICS Program Manager</u>	

General Information

1. What action are you requesting from the Board?

Requesting approval of five (5) Program Supervisor positions and reclassification of three (3) other administrative positions within Health Departments FY07 adopted budget. The net FTE change would be (0.67) and there is no financial impact to the overall budget.

2. Please provide sufficient background information for the Board and the public to understand this issue.

-Addition of Program Supervisors - The changes to the care model in clinical services two years ago significantly increased the level of health care services and tasks delegated to licensed and unlicensed personnel from providers. These tasks needed immediate monitoring, feedback and correction in order to assure safe and competent client care by all levels of staff. This level of oversight is expected of management rather than union and represented staff. In order to meet the needs of the new model, we have decided to add a program supervisor at each site. All positions were added by cutting an existing position. No additional funding was added to the FY07 Adopted Budget.

- Reclassify Administration Secretary to Administration Assistant in the Director's office according to class comp review.
- Reclassify Program Manager 1 to Program Manager 2 at Westside Clinic according to class comp review.
- Reclassify Finance Supervisor to Program Supervisor in Accounts Payable to better suit the needs of the Division.

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

Will change the Health Departments total FTE count by (0.67) FTE but has no financial impact to the total adopted budget.

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

N/A

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

N/A

ATTACHMENT A

Budget Modification

If the request is a Budget Modification, please answer all of the following in detail:

- What revenue is being changed and why?
N/A
- What budgets are increased/decreased?
The Health Departments Primary Care budget will decrease by 0.67 FTE with no overall financial impact.
- What do the changes accomplish?
- Do any personnel actions result from this budget modification? Explain.
 - Adjust FTE by the following;
 - (1.0) Health Assistant 2 - North Portland Health Clinic
 - (.50) Nurse Practitioner - North Portland Health Clinic
 - (.50) Licensed Comm Practical Nurse - Westside Health Clinic
 - (3.67) Community Health Nurse - Northeast, Westside, Eastside and TB Clinic
 - 5.0 Program Supervisor - North Portland, Westside, Eastside, Northeast and TB Clinics
 - (1.0) Administrative Secretary - Director's Office
 - 1.0 Administrative Assistant - Director's Office
 - (1.0) Program Manager 1 - Westside Health Clinic
 - 1.0 Program Manager 2 - Westside Health Clinic
 - (1.0) Finance Supervisor - Business Services - Accounts Payable
 - 1.0 Program Supervisor - Business Services - Accounts Payable
- How will the county indirect, central finance and human resources and departmental overhead costs be covered?
N/A
- Is the revenue one-time-only in nature?
N/A
- If a grant, what period does the grant cover?
N/A
- If a grant, when the grant expires, what are funding plans?
N/A

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

ATTACHMENT B

BUDGET MODIFICATION: HD - 02

Required Signatures

**Department/
Agency Director:**



Date: 08/01/06

Budget Analyst:



Date: 08/07/06

Department HR:



Date: 07/31/06

Countywide HR:

Date: _____

Budget Modification ID: **HD-07-02****EXPENDITURES & REVENUES**

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 2007

Line No.	Fund Center	Fund Code	Func. Area	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
				Internal Order	Cost Center	WBS Element						
1	40-75	26020	30			47600-00-26020	60000	2,001	2,001		Convert 1.0 HA 1 and 0.5 Nurse Practitioner to Program Supervisory in NPHC	
2	40-75	26020	30			47600-00-26020	60130	2,784	2,784			
3	40-75	26020	30			47600-00-26020	60140	(5,541)	(5,541)			
4	40-75	26020	30			47600-00-26020	60240	756	756			
5	40-75	26020	30			47650-00-26020	60000	9,000	9,000		Convert 1.0 CHN to Program Supervisor at NEHC	
6	40-75	26020	30			47650-00-26020	60110	(9,593)	(9,593)			
7	40-75	26020	30			47650-00-26020	60130	410	410			
8	40-75	26020	30			47650-00-26020	60140	183	183			
9	40-75	26020	30			47750-00-26020	60000	10,542	10,542		Convert 0.5 LPN & .67 CHN to Program Supervisor at WHC	
10	40-75	26020	30			47750-00-26020	60120	(7,392)	(7,392)			
11	40-75	26020	30			47750-00-26020	60130	1,041	1,041			
12	40-75	26020	30			47750-00-26020	60140	(4,191)	(4,191)			
13	40-30	1000	30			43700-GF	60000	8,749	8,749		Convert 1.0 CHN to Program Supervisor at TB Clinic	
14	40-30	1000	30			43700-GF	60110	(10,961)	(10,961)			
15	40-30	1000	30			43700-GF	60130	2,532	2,532			
16	40-30	1000	30			43700-GF	60140	(320)	(320)			
17	40-75	26020	30			47500-00-26020	60000	12,929	12929		Convert 1.0 CHN to Program Supervisor at EHC	
18	40-75	26020	30			47500-00-26020	60130	4,149	4149			
19	40-75	26020	30			47500-00-26020	60140	391	391			
20	40-75	26020	30			47500-00-26020	60246	(17,469)	-17469			
21	40-00	1000	30		400020		60000	937	937		Reclass Director's Secretary to Admin Asst	
22	40-00	1000	30		400020		60130	301	301			
23	40-00	1000	30		400020		60140	(388)	(388)			

Budget Modification ID: **HD-07-02****EXPENDITURES & REVENUES**

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 2007

Line No.	Fund Center	Fund Code	Func. Area	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
				Internal Order	Cost Center	WBS Element						
24	40-00	1000	30		400001		60000	(937)	(937)		Salary Savings in Director's Budget	
25	40-00	1000	30		400001		60130	(301)	(301)			
26	40-00	1000	30		400001		60140	388	388			
27	40-90	1000	30		409150		60000	(18,143)	(18,143)		Convert Finance Supervisor to Program Supervisor in Accts Payable	
28	40-90	1000	30		409150		60130	(5,822)	(5,822)			
29	40-90	1000	30		409150		60140	(1,628)	(1,628)			
									(25,593)	0	Total - Page 1	
									0	0	GRAND TOTAL	

Budget Modification ID: **HD-07-02****EXPENDITURES & REVENUES**

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 2007

Line No.	Fund Center	Fund Code	Func. Area	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
				Internal Order	Cost Center	WBS Element						
30	40-90	1000	30		409001		60000	25,593	25,593			
31								0				
32								0				
33								0				
34								0				
35								0				
36								0				
37								0				
38	72-10	3500	0020		705210		50316	11,106	11,106		Insurance	
39	72-10	3500	0020		705210		60330	(11,106)	(11,106)		Insurance	
40								0				
41								0				
42								0				

ANNUALIZED PERSONNEL CHANGE

Change on a full year basis even though this action affects only a part of the fiscal year (FY).

						ANNUALIZED			
Fund	Job #	HR Org	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
1505	6294	61529	Health Assistant 2	708259	(1.00)	(33,109)	(9,628)	(12,595)	(55,332)
1505	6314	61529	Nurse Practitioner	708822	(0.50)	(38,033)	(11,060)	(7,694)	(56,787)
1505	9361	61529	Program Supervisor	TBD	1.00	73,143	23,472	14,748	111,363
1505	6315	61530	Community Health Nurse	704674	(1.00)	(64,143)	(20,583)	(14,612)	(99,338)
1505	9361	61530	Program Supervisor	TBD	1.00	73,143	23,472	14,748	111,363
1505	6303	61532	Licensed Comm Practical Nurse	TBD	(0.50)	(19,533)	(6,268)	(6,920)	(32,721)
1505	6315	61532	Community Health Nurse	TBD	(0.67)	(42,884)	(13,791)	(11,539)	(68,214)
1505	9361	61532	Program Supervisor	TBD	1.00	73,143	23,472	14,748	111,363
1505	6315	61182	Community Health Nurse	TBD	(1.00)	(64,394)	(18,726)	(14,629)	(97,749)
1505	6315	61182	Program Supervisor	700088	1.00	73,143	23,472	14,748	111,363
1505	6315	61527	Community Health Nurse	TBD	(1.00)	(60,214)	(19,323)	(14,357)	(93,894)
1505	9361	61527	Program Supervisor	TBD	1.00	73,143	23,472	14,748	111,363
1505	9615	61532	Program Manager 1	701043	(1.00)	(84,671)	(27,171)	(15,947)	(127,789)
1505	9360	61532	Program Manager 2	701043	1.00	84,671	27,171	15,947	127,789
1000	6005	64680	Administrative Secretary	705473	(1.00)	(41,621)	(13,356)	(13,148)	(68,125)
1000	6054	64680	Administrative Assistant	705473	1.00	42,558	13,657	12,760	68,975
1000	9335	64786	Finance Supervisor	702652	1.00	(73,143)	(23,472)	(15,197)	(111,812)
1000	9361	64786	Program Supervisor	702652	1.00	55,000	17,650	13,569	86,219
TOTAL ANNUALIZED CHANGES					(0.67)	26,199	12,460	(10,622)	28,037

CURRENT YEAR PERSONNEL DOLLAR CHANGE

Calculate costs/savings that will take place in this FY; these should explain the actual dollar amounts being changed by this Bud Mod.

						CURRENT YEAR			
Fund	Job #	HR Org	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
1505	6294	61529	Health Assistant 2	708259	(1.00)	(33,109)	(9,628)	(12,595)	(55,332)
1505	6314	61529	Nurse Practitioner	708822	(0.50)	(38,033)	(11,060)	(7,694)	(56,787)
1505	9361	61529	Program Supervisor	TBD	1.00	73,143	23,472	14,748	111,363
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1505	6315	61532	Community Health Nurse	TBD	(0.67)	(42,884)	(13,791)	(11,539)	(68,214)
1505	9361	61532	Program Supervisor	TBD	1.00	73,143	23,472	14,748	111,363
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1505	6315	61527	Community Health Nurse	TBD	(1.00)	(60,214)	(19,323)	(14,357)	(93,894)
1505	9361	61527	Program Supervisor	TBD	1.00	73,143	23,472	14,748	111,363
1505	9615	61532	Program Manager 1	701043	(1.00)	(84,671)	(27,171)	(15,947)	(127,789)
1505	9360	61532	Program Manager 2	701043	1.00	84,671	27,171	15,947	127,789
1000	6005	64680	Administrative Secretary	705473	(1.00)	(41,621)	(13,356)	(13,148)	(68,125)
1000	6054	64680	Administrative Assistant	705473	1.00	42,558	13,657	12,760	68,975
1000	9335	64786	Finance Supervisor	702652	1.00	(73,143)	(23,472)	(15,197)	(111,812)
1000	9361	64786	Program Supervisor	702652	1.00	55,000	17,650	13,569	86,219
TOTAL CURRENT FY CHANGES					(0.67)	26,199	12,460	(10,622)	28,037



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-5 DATE 08/17/06
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only

Meeting Date: 08/17/06
Agenda Item #: R-5
Est. Start Time: 9:40 AM
Date Submitted: 07/19/06

PROJECT REALLOCATION: FPM-10

**Agenda Title: Reallocation of Facilities Capital Project Funds FPM-10, Building System
Emergency Repair Mini-Fund**

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

Date Requested:	<u>August 17, 2006</u>	Time Requested:	<u>5 mins</u>
Department:	<u>County Management</u>	Division:	<u>Facilities & Property Mgmt.</u>
Contact(s):	<u>John Lindenthal, Alan Proffitt</u>		
Phone:	<u>503 988 4213</u>	Ext.	<u>84213</u>
Presenter(s):	<u>John Lindenthal, Doug Butler</u>		
I/O Address:	<u>274</u>		

General Information

- What action are you requesting from the Board?**
Requested action is to add \$112,000 to the county-wide Building System Emergency Repairs (BSER) for FY 06 authorization in BSER of \$792,000.
- Please provide sufficient background information for the Board and the public to understand this issue.**
The Board included the following Budget Note in the FY 05 Adopted Budget. No reallocation of funds from capital or maintenance projects shall occur without review and approval from the Chief Financial Officer. Projects that will exceed their budgeted appropriation in excess of five percent up to \$25,000 will need to be approved by the Chief Financial Officer; over \$25,000 will need to be brought back to the Board for approval. Facilities shall report to the Board on a semi-annual basis the progress of capital projects and the financial status of capital and maintenance projects." This filing is in response to that requirement and complies with the new County Administrative Procedure, Fin-15, created to implement this process.

The BSER mini-fund is funded each year to respond to unanticipated breakages and major maintenance needs in Tier II and Tier III buildings. Because of the large deferred maintenance

backlog in Tier II and Tier III buildings, some breakage of systems and equipment is expected, if not identifiable prior to the beginning of the year. A total of \$500,000 was included in the adopted budget for FY 06 for this mini-fund. The fund is managed by the construction and operations managers and the capital budget analyst within Facilities. There has been quite a draw on the fund this budget year. The Board on May 11, 2006 approved adding \$180,000 to the BSER mini-fund through FPM 06-08.

The APR for FPM 06-08 stated: "Given the activity to date in the BSER mini-fund, it is possible that additional funding may be required late in the fiscal year. If that occurs, better knowledge of individual WBS project costs will assist in developing funding resources."

We now have received almost all the invoices for FY 06 and the amount currently authorized in FPM 06-08 underestimated the total projects to be charged to BSER, partly due to projects that had been initially charged to Facilities operations but which were upon review determined to be Emergency Repairs.

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

Fiscal year FY 06: No overall fiscal impact. Transfer \$112,000 budget expenditure authority from Beginning Working Capital. The balance carried over to FY 07 is considerably more than the amount requested for FY 06 in this Bud Mod.

Fiscal Year FY 07: Beginning working capital for FY 07 will be reduced. This will impact the projects we can start and the level of expenditures we can incur. We will monitor the buildings and retard projects where we can. This monitoring is consistent which we would do on an ongoing basis in any case.

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

None.

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

None.

ATTACHMENT A

Budget Modification

If the request is a **Budget Modification**, please answer all of the following in detail:

- **What revenue is being changed and why?**
N/A
- **What budgets are increased/decreased?**
No budget change except at project level.
- **What do the changes accomplish?**
N/A
- **Do any personnel actions result from this budget modification? Explain.**
No.
- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**
N/A
- **Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?**
N/A
- **If a grant, what period does the grant cover?**
N/A
- **If a grant, when the grant expires, what are funding plans?**
N/A

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

ATTACHMENT B

PROJECT REALLOCATION: FPM-10

Required Signatures

Facilities &
Property
Management
Director:



Date: 07/19/06

Chief Financial
Officer:



Date: 07/26/06

Budget Director:



Date: 07/20/06

Project Reallocation Bud Mod: FPM06_10

EXPENDITURES & REVENUES

FPM06-10

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Line No.	Fund Center	Fund Code	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
			Internal Order	Cost Center	WBS Element						
1											
2	72-50	2507			CP08.06.45	60530	680,000	792,000	112,000		BSER
3	72-50	2507			CP08.06	60530	1,159,796	1,047,796	(112,000)		BWC
4								0			
5								0			
6											
7											
8											
9											
10											
11											
12											
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15											
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23											
24											
25											
26											
27											
28											
29								0			
								0		0	Total - Page 1
								0		0	GRAND TOTAL



**MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST**

Board Clerk Use Only

Meeting Date: 08/17/06
Agenda Item #: R-6
Est. Start Time: 9:43 AM
Date Submitted: 08/03/06

BUDGET MODIFICATION: -

Agenda Title: **RESOLUTION Approving 2006-2007 Cost of Living Adjustment (COLA) for the Federation of Oregon Parole and Probation Officers (FOPPO)**

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

Date Requested: August 17, 2006 **Time Requested:** 5 minutes
Department: Dept. of County Management **Division:** Labor Relations
Contact(s): Rebecca Gabriel, Sr. Labor Relations Manager
Phone: 503 988-5015 **Ext.** 22168 **I/O Address:** 503/4
Presenter(s): Rebecca Gabriel, Steve Liday, Brennan Mitchell

General Information

1. What action are you requesting from the Board?

Approve a resolution authorizing a 2.8% cost-of-living adjustment effective July 1, 2006, for members of the FOPPO bargaining unit.

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

The County and FOPPO negotiated a wage increase for 2006-07 in the amount of a 2.8% increase in wages for all employees covered by this labor agreement. During the budget process 2.8% was included in all County budgets to cover a cost-of-living adjustment. Therefore, no budget action is needed at this time.

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

None. This amount was budgeted for COLA adjustment for fiscal year 2006-07

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

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

Required Signatures

**Department/
Agency Director:**

Carol M. Ford

Date: 08/07/06

Budget Analyst:

CE

Date: 08/07/06

Department HR:

Rebecca Gabriel

Date: 08/07/06

Countywide HR:

Tami Graves

Date: 08/07/06

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Approving 2006-2007 Cost of Living Adjustment (COLA) for the Federation of Oregon Parole and Probation Officers (FOPPO)

The Multnomah County Board of Commissioners Finds:

- a. The Federation of Oregon Parole and Probation Officers met with Multnomah County representatives to bargain a successor labor agreement over the issue of a Cost of Living Adjustment.
- b. The labor agreement was negotiated pursuant to ORS 243.650-243.782.

The Multnomah County Board of Commissioners Resolves:

1. A 2.8% 2006-2007 COLA for the Federation of Oregon Parole and Probation Officers is approved with an effective date of July 1, 2006.

ADOPTED this 17th day of August 2006.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Kathryn A. Short, Assistant County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 06-146

Approving 2006-2007 Cost of Living Adjustment (COLA) for the Federation of Oregon Parole and Probation Officers (FOPPO)

The Multnomah County Board of Commissioners Finds:

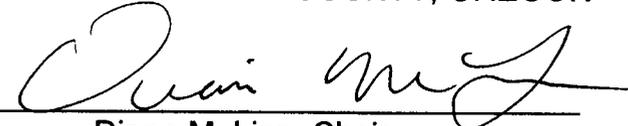
- a. The Federation of Oregon Parole and Probation Officers met with Multnomah County representatives to bargain a successor labor agreement over the issue of a Cost of Living Adjustment.
- b. The labor agreement was negotiated pursuant to ORS 243.650-243.782.

The Multnomah County Board of Commissioners Resolves:

1. A 2.8% 2006-2007 COLA for the Federation of Oregon Parole and Probation Officers is approved with an effective date of July 1, 2006.

ADOPTED this 17th day of August 2006.

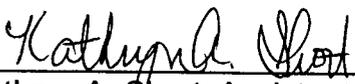
BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 

Kathryn A. Short, Assistant County Attorney



**MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST**

Board Clerk Use Only

Meeting Date: 08/17/06
 Agenda Item #: R-7
 Est. Start Time: 9:45 AM
 Date Submitted: 07/19/06

BUDGET MODIFICATION: -

Agenda Title: **RESOLUTION Authorizing a Three-Month Closure of a Portion of Corbett Hill Road to Conduct the Corbett Hill Viaduct Replacement Project**

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

Date Requested:	<u>August 17, 2006</u>	Time Requested:	<u>5 minutes</u>
Department:	<u>Community Services</u>	Division:	<u>Land Use & Transportation</u>
Contact(s):	<u>Robert Maestre, Deputy Director</u>		
Phone:	<u>(503) 988-5001</u>	Ext.: <u>85001</u>	I/O Address: <u>455</u>
Presenter(s):	<u>Robert Maestre</u>		

General Information

1. What action are you requesting from the Board?

Approval of Resolution authorizing a 3 month closure of Corbett Hill Road.

2. Please provide sufficient background information for the Board and the public to understand this issue.

Corbett Hill Road is the main road link between I-84 and the community of Corbett. The Corbett Hill Viaduct is section of road that traverses a small intermittent stream. It is structurally deficient and has resulted in traffic being weight load restricted. It is important for the local economy and for safety of residents to have no weight restrictions on this route. The project will replace the viaduct with a retaining wall structure and culvert. The project is jointly funded by OTIA and the County.

Removing the existing viaduct and constructing a retaining wall will require a three-month road closure.

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

Project is budgeted and programmed in this fiscal year's state and county road fund budgets.

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

The Corbett Hill Viaduct was selected by ODOT for replacement due to structural insufficiencies. The replacement structure will remove the weight load limits presently imposed on the viaduct. Emergency services for fire/ambulance events in the area will still be handled by the Corbett Fire District. A temporary arrangement for placement of a fire truck beyond the road closure coupled with a route through the closure for fire fighters will enable response to I-84 emergencies.

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

Public meetings in the Corbett area were held during the design and permitting process in 2003, 2004 and 2005. The Corbett and Gresham Fire Departments, Gresham Police, Multnomah County Sheriff's office and the State Dept of Transportation have all been involved in planning for this road closure. A final public meeting is scheduled for August 2006.

Required Signatures

**Department/
Agency Director:**

Robert A Maestre

Date: 07/19/06

Budget Analyst:

Date:

Department HR:

Date:

Countywide HR:

Date:

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Authorizing a Three-Month Closure of a Portion of Corbett Hill Road to Conduct the Corbett Hill Viaduct Replacement Project.

The Multnomah County Board of Commissioners Finds:

- a. The County's Land Use and Transportation Program (LUTP) has obtained sufficient State (OTIA) and County funds to undertake the replacement of the Corbett Hill Viaduct in east Multnomah County, a facility that the County Engineer has determined to be structurally deficient and is presently subject to strict load restrictions.
- b. Replacement of the Corbett Hill Viaduct (the Project) will require the removal of the viaduct structure and closure of a portion of Corbett Hill Road, a county road, for approximately three months, starting on September 5, 2006, while a new retaining wall is constructed.
- c. The approximate location of the Project and the impacted roads are as shown on the attached map identified as Exhibit A.
- d. The LUTP has designed and planned the Project to have the least private impact. No vehicle access to any abutting property will be closed. Traffic-control devices are to be installed and maintained by the contractor. Road-closure informational signs and detour routes will be posted at least seven (7) days in advance of construction closure date.
- e. The County Engineer has caused notice of this proposed closure and this meeting of the County Board to be posted and advertised as provided in the Multnomah County Road Rules, Section 13.250.
- f. The Board's policy objectives are to mitigate negative economic impacts, ensure the safety of road users and workers, incorporate sustainability practices, and limit disruptions to traffic and the lifespan of the entire transportation system. The LUTP has met with and coordinated with the community of Corbett over the last 18 months to help plan for and reduce impacts to the community.
- g. The County's goal is to balance the diverse needs of neighborhoods, the business community and traveling public, the regional economy, and the environment.

The Multnomah County Board of Commissioners Resolves:

1. The Multnomah County Land Use and Transportation Program (LUTP) is authorized to close Corbett Hill Road, a County road, to all vehicle traffic between about 1/4 mile east of the interchange with Interstate I-84 and Reed Road, as shown on the attached Exhibit A, for the period from September 5, 2006 until December 1, 2006.

ADOPTED this 17th day of August 2006.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

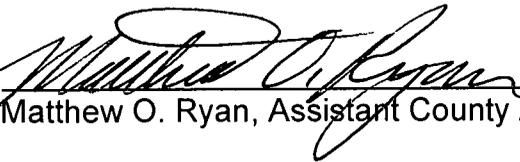
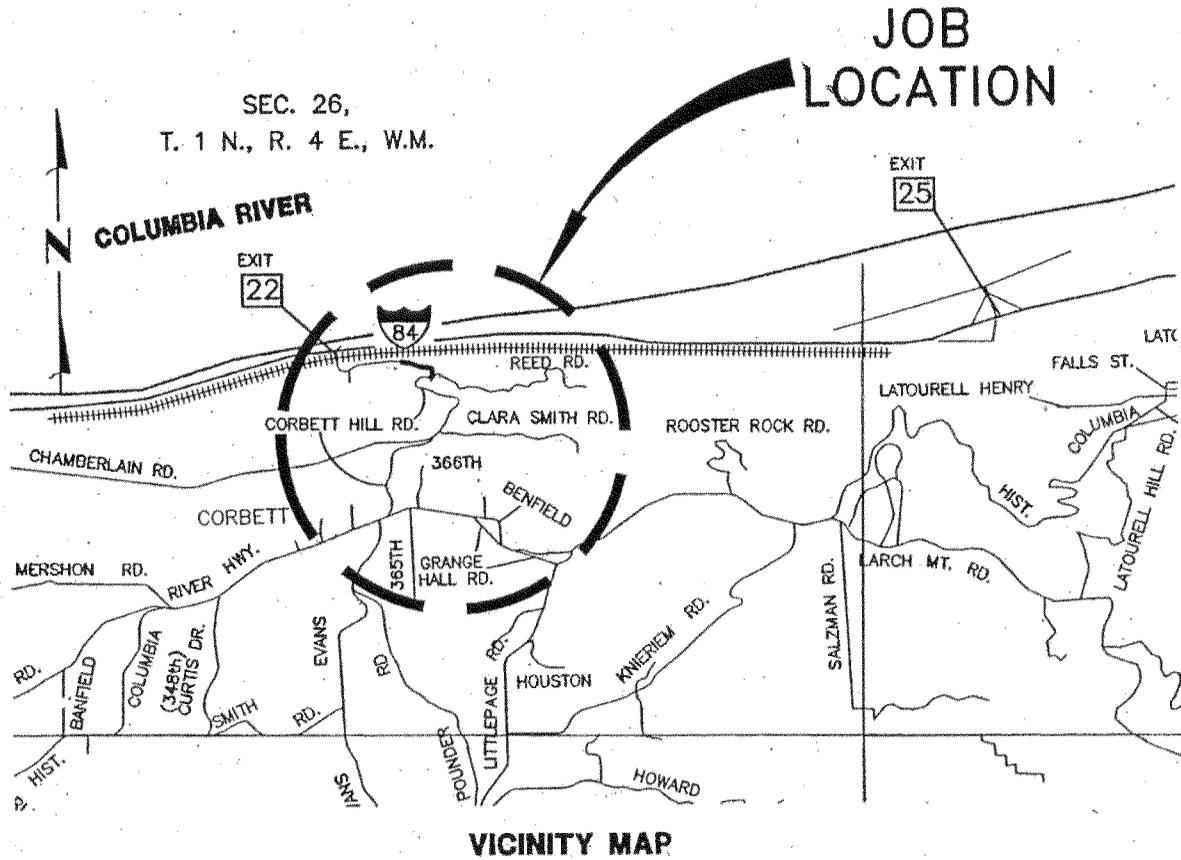
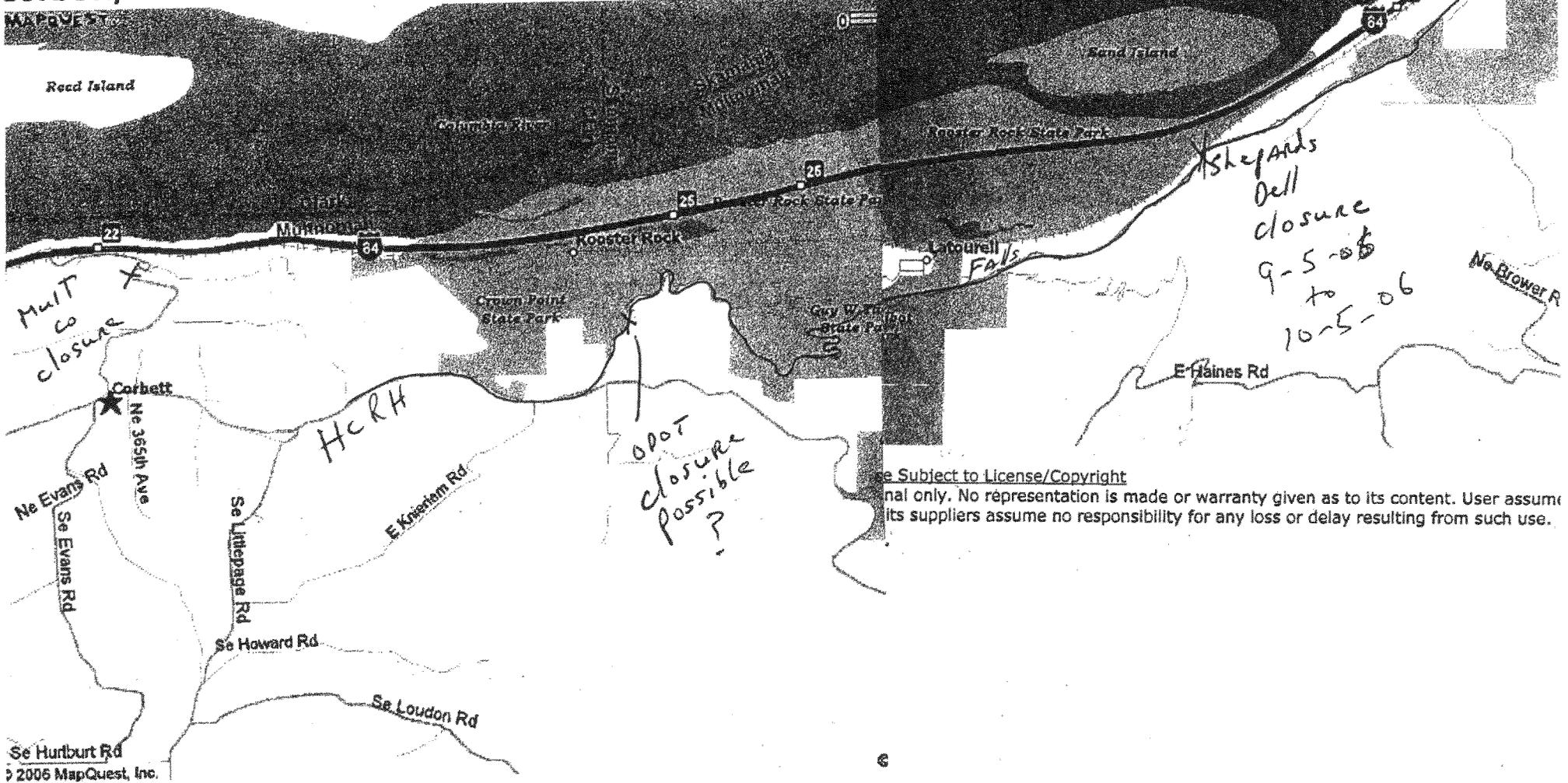
By 
Matthew O. Ryan, Assistant County Attorney

Exhibit A





Corbett, OR US



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BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 06-147

Authorizing a Three-Month Closure of a Portion of Corbett Hill Road to Conduct the Corbett Hill Viaduct Replacement Project

The Multnomah County Board of Commissioners Finds:

- a. The County's Land Use and Transportation Program (LUTP) has obtained sufficient State (OTIA) and County funds to undertake the replacement of the Corbett Hill Viaduct in east Multnomah County, a facility that the County Engineer has determined to be structurally deficient and is presently subject to strict load restrictions.
- b. Replacement of the Corbett Hill Viaduct (the Project) will require the removal of the viaduct structure and closure of a portion of Corbett Hill Road, a county road, for approximately three months, starting on September 5, 2006, while a new retaining wall is constructed.
- c. The approximate location of the Project and the impacted roads are as shown on the attached map identified as Exhibit A.
- d. The LUTP has designed and planned the Project to have the least private impact. No vehicle access to any abutting property will be closed. Traffic-control devices are to be installed and maintained by the contractor. Road-closure informational signs and detour routes will be posted at least seven (7) days in advance of construction closure date.
- e. The County Engineer has caused notice of this proposed closure and this meeting of the County Board to be posted and advertised as provided in the Multnomah County Road Rules, Section 13.250.
- f. The Board's policy objectives are to mitigate negative economic impacts, ensure the safety of road users and workers, incorporate sustainability practices, and limit disruptions to traffic and the lifespan of the entire transportation system. The LUTP has met with and coordinated with the community of Corbett over the last 18 months to help plan for and reduce impacts to the community.
- g. The County's goal is to balance the diverse needs of neighborhoods, the business community and traveling public, the regional economy, and the environment.

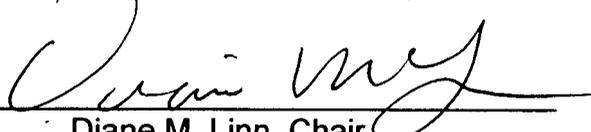
The Multnomah County Board of Commissioners Resolves:

1. The Multnomah County Land Use and Transportation Program (LUTP) is authorized to close Corbett Hill Road, a County road, to all vehicle traffic between about 1/4 mile east of the interchange with Interstate I-84 and Reed Road, as shown on the attached Exhibit A, for the period from September 5, 2006 until December 1, 2006.

ADOPTED this 17th day of August 2006.



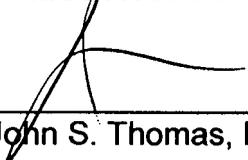
BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Diane M. Linn, Chair

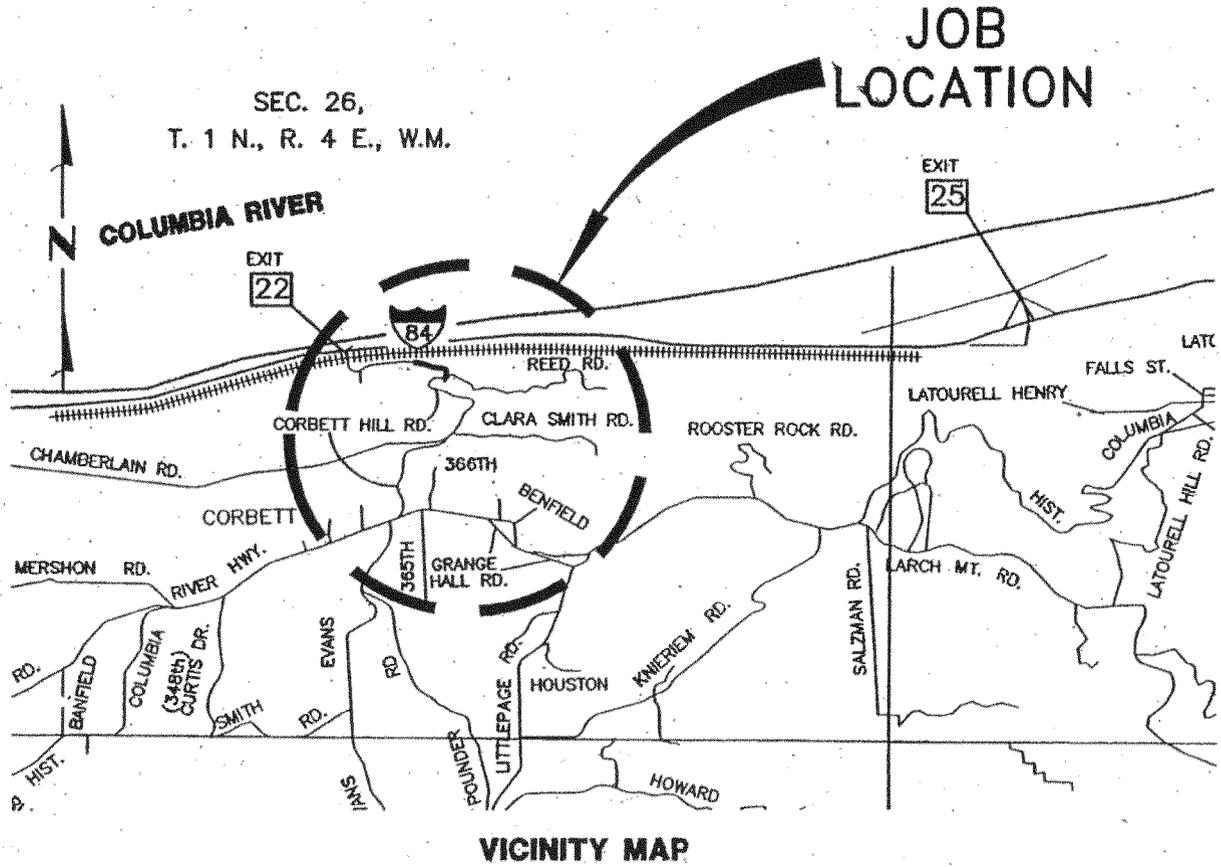
REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 

John S. Thomas, Deputy County Attorney

Exhibit A





**MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST**

Board Clerk Use Only

Meeting Date: 08/17/06
 Agenda Item #: R-8
 Est. Start Time: 9:47 AM
 Date Submitted: 07/24/06

BUDGET MODIFICATION: -

**Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by
Howard Winters for \$3,000,000 in Compensation or Relief from Regulations to
Allow a 31 Lot Subdivision on Property Located at 29446 E. Woodard Road**
 Agenda Title: **[T1S, R4E, SEC 06A, TL 300; T1S, R4E, SEC 06B, TL 100 & 200; T1N, R4E,
SEC 31C TL 800 & 900; T1N, R4E, SEC 31DC, TL 400] (Case File T1-06-008)**

Date Requested:	<u>August 17, 2006</u>	Time Requested:	<u>30 mintues</u>
Department:	<u>Community Services</u>	Division:	<u>Land Use & Transportation</u>
Contact(s):	<u>Derrick Tokos, Adam Barber, Sandra Duffy</u>		
Phone:	<u>503-988-3043</u>	Ext.	<u>22682</u>
		I/O Address:	<u>455/116</u>
Presenter(s):	<u>Adam Barber, Sandra Duffy</u>		

General Information

1. What action are you requesting from the Board?

Action requested is to provide a public hearing and render a decision regarding a Measure 37 claim by Howard Winters for a subdivision of 31, five (5) acre lots on property located at 29446 E. Woodard Road. Land use planning has outlined an approach to deciding this claim in a staff report dated July 24, 2006.

2. Please provide sufficient background information for the Board and the public to understand this issue.

For a claim to be valid, the land use regulations challenged must restrict the claimants use of private real property in a manner that reduces the fair market value of the property relative to how the property could have been used at the time the claimants acquired the property. As outlined in the staff report and memorandum from the County Attorney's Office dated June 8th, 2006, this requirement has not been met because:

- (a) The claimant has failed to establish that he acquired one of the subject properties (Tax Lot . 100) prior to the date the challenged regulations were enforced and;

- (b) The claimant has failed to establish that he had continuous ownership of the parcels since they were first acquired;
- (c) Subdividing property is not a "use" subject to the provisions of Measure 37 and that, in any event, development rights gained through a waiver are personal to the claimant and cannot be transferred to a purchaser of a subdivided parcel. Since the rights are not transferable there has been no reduction in the fair market value of the property.

This claim involves six contiguous properties that are referred to in the staff report as tax lots 100, 200, 300, 400, 800 and 900. The claimant has submitted documentation that tax lots 200, 300, 400, 800 and 900 were acquired between 10-31-45 and 3-5-53. The applicant has failed to establish that tax lot 100 was acquired prior to 4-28-1978 at which time land use regulations were in effect that would have prevented the division of tax lot 100 into 5 acre lots.

With the exception of tax lot 100, the claimant has provided deeds showing that he initially acquired the properties before the County adopted land use regulation is 1958. The claimant; however, has not provided a title report showing that he has continually owned these properties since that time. Without knowing that ownership has been continuous, it is not possible to determine what date the claimant has the right to seek a waiver of regulations back to. Without knowing what ownership date a claim stems from, it is not possible to determine that regulations have resulted in a restriction of use.

Additionally, the use the claimant asserts has been restricted is his ability to subdivide the properties so that the resulting lots can be sold for development. The claimant has expressed no interest in developing the property himself. Multnomah County's interpretation of the law as reflected in its Measure 37 ordinance is that division of a property is not a 'use' of land subject to the provisions of Measure 37 and that development rights gained through a waiver are personal to the claimant and will result in no restriction in use if transferred to a third party. No restriction in use would occur for the third party because the newly purchased subdivision lots would be subject to the current Exclusive Farm Use and Commercial Forest Use-4 land use regulations preventing a dwelling from being built.

Similarly, a reduction in value has not occurred because development rights for each subdivision lot would not transfer to the new owners of those lots. Even if a subdivision could have been approved at the time the owner acquired the property, Measure 37 rights are personal to the claimant and are of no value to a new owner. For instance, the current Exclusive Farm Use zoning regulations would be applied once a newly created subdivision lot is sold to a new owner. These regulations would prohibit the establishment of a dwelling on each subdivision lot rendering it an unbuildable lot. Because the resulting lots would have no development value, no reduction in value will occur as compared to the current development value of each property under the current zoning regulations.

It is for these reasons that staff recommends the Board of Commissioners deny this claim

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

The claimants assert a reduction in value of \$3,000,000; however, this dollar figure is not supported by an appraisal prepared in accordance with the county ordinance. Staff does not believe any compensation is due because the claim is invalid.

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

Policy and legal issues are outlined in a staff report from Land Use Planning dated July 24, 2006. The County Attorney has advised that any property rights obtained by relief from land use regulations are not transferable under Ballot Measure 37, consistent with the DOJ opinion of February 2005.

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

Public notice of this hearing will be mailed to all property owners within 750 feet of the subject property. Deliberation and any action on this item will be done following a public hearing at which interested citizens will have an opportunity to testify and provide written comment in accordance with the Board of Commissioners rules of procedure for the hearing.

Required Signatures

**Department/
Agency Director:**



Date: 07/24/06

Budget Analyst:

Date: _____

Department HR:

Date: _____

Countywide HR:

Date: _____



**LAND USE & TRANSPORTATION
PLANNING PROGRAM**

1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
<http://www.co.multnomah.or.us/landuse>

Staff Analysis of a Measure 37 Claim

The following matter is scheduled for public hearing, deliberation and possible action before the Multnomah County Board of Commissioners

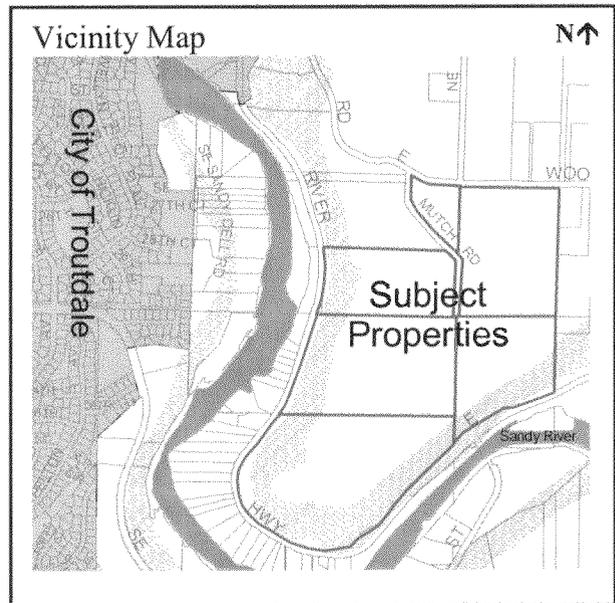
Hearing Date, Time, & Place:

August 17, 2006 at 9:30 am or soon thereafter, in the Commissioners' Board Room of the Multnomah Building, located at 501 SE Hawthorne, Portland, Oregon.

Case File: T1-06-008

Claimant: Howard Winters

Location: 29446 E. Woodard Road
TL 300 Sec 06A, 1S-4E; TL's 100 & 200
Sec 06B, 1S-4E; TL's 800 & 900 Sec
31C, 1N-4E; TL 400 Sec 31DC, 1N-4E



Claim: Compensation in the amount of \$3,000,000 or relief from land use regulations to allow a subdivision of up to 31 lots of 5-acres each.

Zoning: Commercial Forest Use-4 (CFU-4), Exclusive Farm Use (EFU), Slope Hazard

Site Size: Total Acreage- 157.77 acres

Tax Lot 100-	34.93 acres	Tax Lot 400-	28.91 acres
Tax Lot 200-	47.76 acres	Tax Lot 800-	5.11 acres
Tax Lot 300-	21.66 acres	Tax Lot 900-	19.40 acres

Approach to Deciding the Claim:

For a claim to be valid, the land use regulations challenged must restrict the claimant's use of private real property in a manner that reduces the fair market value of the property relative to how the property could have been used at the time the claimant acquired the property. As outlined in this report and memorandum from the County Attorney's Office dated June 8th, 2006, this requirement has not been met. The reasons for this are as follows:

- (a) The claimant has failed to establish that he acquired one of the subject properties (Tax Lot 100) prior to the date the challenged regulations were enforced and;
- (b) The claimant has failed to establish that he had continuous ownership of the parcels since they were first acquired;

- (c) Subdividing property is not a “use” subject to the provisions of Measure 37 and that, in any event, development rights gained through a waiver are personal to the claimant and cannot be transferred to a purchaser of a subdivided parcel. Since the rights are not transferable there has been no reduction in the fair market value of the property.

(The following is a step-by-step evaluation of the claim, which consists of the application materials submitted by Donald Joe Willis, ESQ, applicant for the claimant. The analysis is structured as a series of questions that must be answered to establish if a claim is valid, comparable to the methodology outlined in a February 24th, 2005 memo authored by the State Attorney General’s Office.)

1. Has the owner made a complete written demand under Ballot Measure 37?

No. The materials submitted by the claimant do not constitute a complete written demand for compensation as required by Measure 37 and the county’s code.

This claim involves six contiguous properties that will be referred to as tax lots 100, 200, 300, 400, 800 and 900 throughout this staff report. The claimant has submitted documentation that tax lots 200, 300, 400, 800 and 900 were acquired between 10-31-45 and 3-5-53. The applicant has failed to establish that tax lot 100 was acquired prior to 4-28-1978 at which time regulations were in effect that would have prevented the division of tax lot 100 into 5 acre lots.

The claimant has not submitted a title report, appraisal showing the loss in value, the \$1,500 processing deposit or an explanation of how the challenged regulations restrict the use of the property, all of which are required by MCC 27.520. Multnomah County Code 27.500 – 27.565 implements Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37 (ORS 197.352). These regulations, in part, provide the framework used to decide whether or not a claim is sufficiently complete, valid and eligible for compensation by either regulatory waiver or monetary compensation. Staff followed these guidelines to determine that the necessary contents of a written claim have not been submitted.

This claim was submitted to Multnomah County on October 25, 2005. On October 27th, the county sent the claimant a letter indicating the review would be suspended in light of the October 14th Marion County ruling MacPherson v. Department of Administrative Services finding Measure 37 unconstitutional. On February 24th, 2006, a letter was sent to the claimant indicating the review would again commence because three days earlier, Oregon’s Supreme Court overturned this ruling. On March 10th, 2006, county staff provided a detailed letter to the claimant outlining the outstanding information required for a complete claim pursuant to the provisions of MCC 27.500 – 27.565. The missing information included the \$1,500 processing deposit, a title report to verify ownership and property appraisals to support the alleged reduction in value. The chain of title in a title report is critical to understanding the property ownership. There is a question in this claim regarding whether or not the claimant has had continuous ownership of the subject property.

By May 4th, 2006 the required information for a complete claim had not been submitted. A letter was mailed on that date to the claimant indicating that the county could either process the claim as an invalid claim, or put the claim on hold in order to see how the land division issue is resolved by the courts. We received no written response to the May 4th request and therefore have prepared this report.

2. ***Did the claimants acquire the properties before the laws in question were adopted?***

No. Data submitted with the claim only supports the claimant's ownership of tax lot 100 through 4-28-1978, which was after the enactment of the 1977 regulations preventing land divisions into 5 acre lots. The claimant established that he originally purchased tax lots 200, 300, 400, 800, and 900 prior to the enactment of the 1977 regulations but has not established that his ownership of these lots has been continuous.

The claimant has submitted a Measure 37 request to divide six properties into a 31 lot subdivision, or have the county pay \$3,000,000 in compensation.

The claimant states that Howard Winters has held an ownership in all six of the property since 1951. The deed records submitted to the file document Mr. Winter's ownership for each respective lot as follows:

Tax Lot	Date of Acquisition	Deed Submitted
100	4-28-1978	Book 1260 Page 613
200	3-5-1953	Book 1595 Pages 11-12
300	10-31-1945	Book 985 Pages 22-23
400	10-31-1945	Book 985 Pages 22-23
800	4-5-1947	Book 1180 Pages 71-72
900	1-10-1951	Book 1500 Pages 434-435

While deeds have been submitted, no title report has been submitted to document that Mr. Winter's ownership has been continuous.

Zoning was first applied to the properties in 1958 with the adoption of the Agricultural District (F-2) zoning regulations. The zoning of tax lots 100, 200, 300, 400, and 800 was changed to Multiple Use Agriculture- 20 (MUA-20) on October 6th, 1977. The zoning of tax lot 900 was changed to Multiple Use Forest-20 (MUF-20) on October 6th, 1977. The MUA-20 zone was changed to EFU on August 14, 1980, which was amended on April 5, 1997 to include the state mandated 80 acre minimum lot size. The MUF-20 zone was changed to MUF-19 on 8-14-1980 and then to CFU on 1-7-1993, which incorporated the state mandated 80 acre minimum lot size. The current CFU-4 zone was applied on August 8, 1998.

Adoption of MUF-20 and MUA-20 zoning regulations in 1977 required new lots created in the district, by a subdivision for example, to be at least 20-acres in size. Currently, the CFU-4 and EFU zoning districts require all newly created properties from a land division to be at least 80-acres in size (MCC 35.2660(A)).

In conclusion, the claimant has established dates at which he first acquired property, but has not established that he has had continuous ownership of any of the lots involved with the claim. The claimant has also not established that he had any ownership of tax lot 100 prior to the adoption of the Multiple Use Agriculture regulations in 1977.

3. ***Have the challenged regulations restricted the use of the properties for the claimant?***

No. The claimant has failed to establish that the challenged regulations have restricted their use of the property.

Zoning was first applied to the properties in 1958 with the adoption of the Agricultural District (F-2) zoning regulations. The zoning of tax lots 100, 200, 300, 400, and 800 was changed to Multiple Use Agriculture- 20 (MUA-20) on October 6th, 1977. The zoning of tax lot 900 was changed to Multiple Use Forest-20 (MUF-20) on October 6th, 1977. The MUA-20 zone was changed to EFU on August 14, 1980, which was amended on April 5, 1997 to include the state mandated 80 acre minimum lot size. The MUF-20 zone was changed to MUF-19 on 8-14-1980 and then to CFU on 1-7-1993, which incorporated the state mandated 80 acre minimum lot size. The current CFU-4 zone was applied on August 8, 1998.

Without verifying that ownership has been continuous, it is not possible to determine what date the claimant has the right to seek a waiver of regulations back to. Without knowing what ownership date a claim stems from, it is not possible to determine that regulations have resulted in a restriction of use.

Further, the use the claimant asserts has been restricted is his ability to subdivide the properties so that the resulting lots can be sold for development. The claimant has expressed no interest in developing the property himself. Multnomah County's interpretation of the law as reflected in its Measure 37 ordinance is that division of a property is not a 'use' of land subject to the provisions of Measure 37 and that development rights gained through a waiver are personal to the claimant and will result in no restriction in use if transferred to a third party. No restriction in use would occur for the third party because the newly purchased subdivision lots would be subject to the current Exclusive Farm Use and Commercial Forest Use-4 regulations preventing a dwelling from being built.

This legal issue is analyzed in detail within a memo prepared by the Assistant County Attorney, Sandra Duffy, dated June 8, 2006. For the reasons outlined in this legal memorandum, staff finds this claim seeking the right to subdivide the property to be invalid.

4. *Have the regulations reduced the fair market value of the properties?*

No. The claimant has failed to establish that the challenged regulations have reduced the fair market value of the property.

A reduction in value has not occurred because development rights for each subdivision lot would not transfer to the new owners of those lots. Even if a subdivision could have been approved at the time the owner acquired the property, Measure 37 rights are personal to the claimant and are of no value to a new owner. For instance, the current Exclusive Farm Use zoning regulations would be applied once a newly created subdivision lot is sold to a new owner. These regulations would prohibit the establishment of a dwelling on each subdivision lot rendering it an unbuildable lot. Because the resulting lots would have no development value, no reduction in value will occur as compared to the current development value of each property under the current zoning regulations.

PUBLIC NOTICE

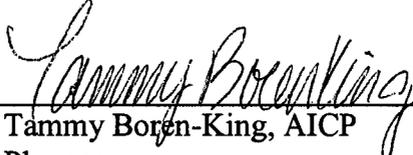
Public notice of this hearing was mailed to all property owners within 750 feet of the subject property. Deliberation and any action on this item will be done following a public hearing at which interested citizens will have an opportunity to testify and provide written comment in accordance with the Board of Commissioners rules of procedure for the hearing.

CONCLUSION

In conclusion, the claimant has failed to establish that they acquired the property and have had continuous ownership prior to the date the challenged regulations were enforced. Additionally, the claimant has failed to establish that regulations preventing him from subdividing the property so that a third party can develop homes on the lots has restricted his use of the land and reduced its value. Subdividing property is not a "use" subject to the provisions of Measure 37 and, in any event, development rights gained through a waiver are personal to the claimant and cannot be transferred to a purchaser.

Consequently, staff recommends that the Board of Commissioners deny this claim.

Issued by:

By: 

Tammy Boren-King, AICP
Planner

For: Karen Schilling, Planning Director

Date: July 24, 2006

Exhibits

Copies of the documents referenced herein are in the case record that is on file at the Land Use and Transportation Planning Office.

From: Schaefer, Joseph [JSchaefer@SCHWABE.com]
Sent: Thursday, August 03, 2006 8:43 AM
To: tammy.boren.king@co.multnomah.or.us; TOKOS Derrick I
Subject: Winters M37 - Your File No. T1-06-08



0440_001.pdf (98 KB)

Tammy and Derrick:

Your staff report indicates tax lot 100 was acquired in 1978. Attached please find a copy of my letter to Tammy from May 4, which enclosed a copy of the vesting deed that was recorded in 1943.

Please revise the staff report to reflect this deed. Thanks.

Joseph Schaefer
Land Use Planner
Schwabe, Williamson & Wyatt
1211 SW Fifth Ave., Suite 1600
Portland, OR 97204
(503) 796-2091

> <<0440_001.pdf>>

To comply with IRS regulations, we are required to inform you that this message, if it contains advice relating to federal taxes, cannot be used for the purpose of avoiding penalties that may be imposed under federal tax law. Any tax advice that is expressed in this message is limited to the tax issues addressed in this message. If advice is required that satisfies applicable IRS regulations, for a tax opinion appropriate for avoidance of federal tax law penalties, please contact a Schwabe attorney to arrange a suitable engagement for that purpose.

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SCHWABE, WILLIAMSON & WYATT
ATTORNEYS AT LAW

Pacwest Center, 1211 SW 5th Ave., Suite 1900, Portland, OR 97204 | Phone 503-222-9981 | Fax 503-796-2900 | www.schwabe.com

JOSEPH S. SCHAEFER
LAND USE PLANNER
Direct Line: (503) 796-2091
Cellular Phone: (503) 819-4764
E-Mail: jschaefer@schwabe.com

May 4, 2006

Ms. Tammy Boren-King
Planner
Multnomah County
Land Use and Transportation Program
1600 SE 190th Ave.
Portland, OR 97233-5910

Re: Winters Measure 37 Claim - Vesting Deed for Tax Lot 100

Dear Tammy:

Pursuant to your request of March 10, 2006, enclosed please find a copy of Mr. Winters' original vesting deed for tax lot 100. The deed was recorded in Multnomah County, Book 763, Page 515, and was executed on June 23, 1943.

Please let me know if you have any more questions about the title or other issues.

Sincerely,

Joseph S. Schaefer
Land Use Planner

JSS:

Enclosure

cc: Joe Willis
Howard Winters

Portland, OR 503-222-9981 | Salem, OR 503-399-7712 | Bend, OR 541-749-4044
Seattle, WA 206-622-1711 | Vancouver, WA 360-694-7551 | Washington, DC 202-488-4302

PDX/094665/145490/JSS/1421704.1

A. D. 1943.
 Ray Sutton,
 known to me to be
 acknowledged to

set my hand and
 I above written.
 25/1947

1547 S. E. Elliott
 172

BOOK 703 PAGE 119

KNOW ALL MEN BY THESE PRESENTS, That Edward J. Howell and Marie C. Howell
 husband and wife

in consideration of Twenty Seven Hundred and no/100 Dollars

to them paid by Edward J. Wilburn

do hereby grant, bargain, sell and convey unto said Edward J. Wilburn

his heirs and assigns all the following real property, with the tenements, improvements and appurtenances situated in the County of Washington and State of Oregon, bounded and described as follows, to-wit:

Beginning at the one-quarter Section corner of the North line of Section 6, Township 1 South, Range 4 East of the Millemette Meridian; thence West along the North line of said Section 6 to the center line of Columbia River Highway; thence South 16° 25' 40" West 898.46 feet along the center line of said highway to beginning of a curve to the right with a radius of 1488 feet; thence on a semi-tangent of said curve South 16° 25' 40" West 260.24 feet to a point of intersection of the tangents of said curve; thence South 57° 04' 40" West 102.8 feet, more or less, to the South line of that certain 60 Acre Tract conveyed by W. T. Slater, referee, to Marie Howell, by deed recorded October 15, 1924 in Book 682, page 418, Deed Records of Multnomah County, Oregon; thence East tracing the South line of said 60 Acre Tract to its intersection with the North and South center line running through said Section; thence North along the South and North Center line of said Section to the place of beginning;

To Have and to Hold, the above described and granted premises unto the said Edward J. Wilburn

his heirs and assigns forever

And Edward J. Howell and Marie C. Howell husband and wife

do hereby covenant to and with the above named grantee his heirs and assigns that they are lawfully seized in fee simple of the above granted premises, that the above granted premises are free from all incumbrances, whatsoever

and that they will and their heirs, executors and administrators, shall warrant and forever defend the above granted premises, and every part and parcel thereof, against the lawful claims and demands of all persons whomsoever

Witness their hand and seal this 25th day of June 1943

Executed in the Presence of
Ed Howell (SGL)
Marie C Howell (SGL)
 (SGL)
 (SGL)

Script for Howard Winters Measure 37 Hearing

INTRODUCTION:

Chair: This is the time set for public hearing on the claim of HOWARD WINTERS under Ballot Measure 37. I am Diane Linn, Chair of the Multnomah County Board of Commissioners. Also in attendance are Commissioners _____ [name each Commissioner].

All information relevant to the claim may be submitted and will be considered in this hearing. The evidence may be in any form including oral and written testimony, letters, petitions or other written material, slides, photographs, maps drawings or other items.

The Commission will base its decision on the evidence presented, along with the information on the claim in the Planning file. The Board decision will be by Order adopted by the Board.

DISCLOSURES:

Chair: Board members are required to disclose the content of any *ex parte* contacts. Any Board member who has received any factual information obtained outside the information provided by the county planning staff or this hearing is an *ex parte* contact. A visit to the property is considered an *ex parte* contact. Any *ex parte* contacts should be disclosed at this time. Such disclosures should include the time and date of the visit, what he/she observed, who (if anyone) the Commissioner talked to at the site and any other relevant facts or observations obtained as a result of the site visit.

Chair: I have *no ex parte* contacts to disclose.

or if the Chair has disclosures to make

I have the following disclosures to make: _____

Chair: [Invite the other Commissioners to make any necessary disclosures.)
Commissioner Rojo de Steffey? Commissioner Naito? Commissioner Cruz?
Commissioner Roberts? [If there are none, each Commissioner should say "none" on the record.]

[If there are disclosures of *ex parte* contacts, the claimant and the public should be given an opportunity to rebut the substance of any disclosure. "Does anyone have any rebuttal testimony relating to any disclosure?"]

Chair: Board members are also required to disclose any conflicts of interest and to recuse themselves from deliberation and voting if a conflict exists. It is deemed a conflict of interest if any Board member, or a member of his/her immediate family or household, has a financial interest in the outcome of a matter before the Board. It is a conflict of interest if a Board member lives within the geographical area entitled to notice of a claim.

Script for Howard Winters Measure 37 Hearing

Chair: Does any Board member, or a member of his/her immediate family or household, have a financial interest in the outcome of matter now before us?

I do [do not] have a financial interest in the outcome of this matter. [Invite other commissioners to make any necessary disclosures.] Rojo de Steffey? Naito? Cruz? Roberts? [If yes, that person must recuse himself/herself on the record.]

Does any Board member live within the geographical area entitled to notice of claim?

I do [do not] live within the geographical area. Rojo de Steffey? Naito? Cruz? Roberts?

[Any commissioner who lives within the relevant geographical area must recuse himself/herself. MCC 7.540]

CONDUCT OF THE HEARING:

Chair: I will ask for testimony and other evidence in the following order:

1. Staff report
2. Claimant or claimant's representative
3. Others who wish to be heard on the claim
4. Commission discussion, questions, deliberation
5. Future scheduling if necessary

HOW TO PRESENT TESTIMONY:

Chair: There are testimony cards at the back of the room and should be filled out by anyone wishing to testify. The claimant need not fill out a card. The cards should be given to the Board Clerk.

1. State your name and address before you begin your presentation
2. Avoid repetitive testimony
3. During the hearing, I ask those in the audience to refrain from any demonstration in support or opposition to the claim.

Chair: [Ask for testimony in the order listed above]

AT THE CONCLUSION OF THE TESTIMONY:

Chair: [Ask for Board discussion, questions, deliberation, motion and/or future scheduling if necessary]

R-B
DRAFT FOR
BOARD
PACKETS
ONLY

DRAFT

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. _____

Order Denying Measure 37 Request of Howard Winters Relating to Real Property Located at
29446 E. Woodard Road

The Multnomah County Board of Commissioners Finds:

- a. **Party:** Howard Winters is the Ballot Measure 37 Claimant who filed a demand for compensation to Multnomah County on October 25, 2005.
- b. **Subject Real Property:** This claim relates to real property located at 29446 E. Woodard Road, Multnomah County, Portland, Oregon, more specifically described as:

TL 300 Sec 06A, 1S-4E; TLs 100&200 Sec 06B, 1S-4E; TLs 800 & 900
Sec 31C, 1N-4E; TL 400 Sec 31DC, 1N-4E
- c. **Adequacy of Demand for Compensation:**
The materials submitted by the claimant do not constitute a complete written demand for compensation as required by Multnomah County Code 27.520.

This claim was submitted to Multnomah County on October 25, 2005. On October 27, the county sent the claimants a letter indicating the review would be suspended in light of the October 14 Marion County ruling MacPherson v. Department of Administrative Services finding Measure 37 unconstitutional. On February 24, 2006, a letter was sent to the claimants indicating the review would again commence because five days earlier, Oregon's Supreme Court overturned this ruling. On March 10, 2006, County Staff provided a detailed letter to the claimants outlining the outstanding information required for a complete claim pursuant to the provisions of MCC 27.500 – 27.565.

The missing information included the \$1,500 processing deposit, a title report to verify ownership and property appraisals to support the alleged reduction in value. The chain of title in a title report is critical to understanding the property ownership. There is no evidence in the record regarding whether or not the claimants have had continuous ownership of the subject property.

By May 4, 2006 the required information for a complete claim had not been submitted. A letter was mailed on that date to the claimants indicating that the county could either process the claim as an invalid claim, or put the claim on hold in order to see how the land division issue is resolved by the courts. County planning staff received no response to the May 4th request and prepared its staff report without benefit of the required information.

DRAFT

The Board finds that the materials submitted by the claimant do not constitute a complete written demand for compensation as required by Multnomah County Code 27.520.

d. Relevant Dates of Property Ownership:

The claimant has submitted a Measure 37 request to divide six properties into a 31 lot subdivision, or have the county pay \$3,000,000 in compensation.

The claimant states that Howard Winters has held an ownership in all six of the property since 1951. The deed records submitted to the file document Mr. Winter's ownership for each respective lot as follows:

Tax Lot	Date of Acquisition	Deed Submitted
100	4-28-1978	Book 1260 Page 613
200	3-5-1953	Book 1595 Pages 11-12
300	10-31-1945	Book 985 Pages 22-23
400	10-31-1945	Book 985 Pages 22-23
800	4-5-1947	Book 1180 Pages 71-72
900	1-10-1951	Book 1500 Pages 434-435

While deeds have been submitted, no title report has been submitted to document that Mr. Winter's ownership has been continuous.

Zoning was first applied to the properties in 1958 with the adoption of the Agricultural District (F-2) zoning regulations. The zoning of tax lots 100, 200, 300, 400, and 800 was changed to Multiple Use Agriculture- 20 (MUA-20) on October 6, 1977. The zoning of tax lot 900 was changed to Multiple Use Forest-20 (MUF-20) on October 6, 1977. The MUA-20 zone was changed to EFU on August 14, 1980, which was amended on April 5, 1997 to include the state mandated 80 acre minimum lot size. The MUF-20 zone was changed to MUF-19 on 8-14-1980 and then to CFU on 1-7-1993, which incorporated the state mandated 80 acre minimum lot size. The current CFU-4 zone was applied on August 8, 1998.

Adoption of MUF-20 and MUA-20 zoning regulations in 1977 required new lots created in the district, by a subdivision for example, to be at least 20-acres in size. Currently, the CFU-4 and EFU zoning districts require all newly created properties from a land division to be at least 80-acres in size (MCC 35.2660(A)).

Data submitted with the claim only supports the claimant's ownership of tax lot 100 through 4-28-1978, which was after the enactment of the 1977 regulations preventing land divisions into 5 acre lots. The claimant established that he originally purchased tax lots 200, 300, 400, 800, and 900 prior to the enactment of the 1977 regulations but has not established that his ownership of these lots has been continuous.

The Board finds that the Claimant has failed to provide evidence of the relevant dates of his ownership in the properties for which he makes a Measure 37 claim.

DRAFT

e. **County Codes as a Restriction on Use of the Property:**

Zoning was first applied to the properties in 1958 with the adoption of the Agricultural District (F-2) zoning regulations. The zoning of tax lots 100, 200, 300, 400, and 800 was changed to Multiple Use Agriculture- 20 (MUA-20) on October 6, 1977. The zoning of tax lot 900 was changed to Multiple Use Forest-20 (MUF-20) on October 6, 1977. The MUA-20 zone was changed to EFU on August 14, 1980, which was amended on April 5, 1997 to include the state mandated 80 acre minimum lot size. The MUF-20 zone was changed to MUF-19 on 8-14-1980 and then to CFU on 1-7-1993, which incorporated the state mandated 80 acre minimum lot size. The current CFU-4 zone was applied on August 8, 1998.

Without verifying that ownership has been continuous, it is not possible to determine what date the claimant has the right to seek a waiver of regulations back to. Without knowing what ownership date a claim stems from, it is not possible to determine that regulations have resulted in a restriction of use.

Further, the use the claimant asserts has been restricted is his ability to subdivide the properties so that the resulting lots can be sold for development. The claimant has expressed no interest in developing the property himself. Multnomah County's interpretation of the law as reflected in its Measure 37 ordinance is that division of a property is not a 'use' of land subject to the provisions of Measure 37 and that development rights gained through a waiver are personal to the claimant and will result in no restriction in use if transferred to a purchaser. No restriction in use would occur for the purchaser because the newly purchased subdivision lots would be subject to the current Exclusive Farm Use and Commercial Forest Use-4 regulations preventing a dwelling from being built.

This legal issue is analyzed in detail within a memo prepared by the Assistant County Attorney, Sandra Duffy, dated June 8, 2006. For the reasons outlined in this legal memorandum, the Board finds this claim seeking the right to subdivide the property to be invalid.

The Board further finds that the claimant has failed to establish that the challenged regulations have restricted their use of the property

f. **County Code Restrictions Reduce Fair Market Value:**

A reduction in value has not occurred because development rights for each subdivision lot would not transfer to the new owners of those lots. Even if a subdivision could have been approved at the time the owner acquired the property, Measure 37 rights are personal to the claimant and are of no value to a new owner. For instance, the current Exclusive Farm Use zoning regulations would be applied once a newly created subdivision lot is sold to a new owner. These regulations would prohibit the establishment of a dwelling on each subdivision lot rendering it an unbuildable lot. Because the resulting lots would have no development value, no reduction in value will occur as compared to the current development value of each property under the current zoning regulations.

DRAFT

The Board finds that the claimant has failed to establish that the challenged regulations have reduced the fair market value of the property.

g. **Public Notice**

This action is before the Board under MCC 27.530(N), which authorizes the Planning Director to determine whether a claim is complete and allows the Director to recommend to the Board that the claim be denied if it is invalid on its face. Section 3.50 of the County Charter requires notice to the public of all Board agenda matters. This notice was provided. The claimant and persons who own land within 750 feet of the subject property received notice by mail.

h. **Validity of Claim for Compensation:** The Board finds that:

(1) The claim materials submitted by the claimants do not constitute a complete written demand for compensation as required by Measure 37 and Multnomah County Code 27.530.

(2) The claimants have not established that they have had continuous ownership of all six tax lots involved with the claim. Data submitted with the claim only supports the claimant's ownership of tax lot 100 through 4-28-1978, which was after the enactment of the 1977 regulations preventing land divisions into 5 acre lots. The claimant established that he originally purchased tax lots 200, 300, 400, 800, and 900 prior to the enactment of the 1977 regulations but has not established that his ownership of these lots has been continuous.

(3) Without verifying that ownership has been continuous, it is not possible to determine what date the claimants have the right to seek a waiver of regulations back to. Without knowing what ownership date a claim stems from, it is not possible to determine that regulations have resulted in a restriction of use.

DRAFT

(4) Subdividing property is not a “use” subject to the provisions of Measure 37 and, in any event, development rights gained through a waiver are personal to the claimant and cannot be transferred to a purchaser of a subdivided parcel. Since the rights are not transferable there has been no reduction in the fair market value of the property.

The Multnomah County Board of Commissioners Orders:

Claimant, Howard Winters’, request is denied.

ADOPTED this 17th day of August, 2006.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Sandra Duffy, Assistant County Attorney

BOGSTAD Deborah L

From: DUFFY Sandra N
Sent: Wednesday, August 16, 2006 8:54 AM
To: BOGSTAD Deborah L
Subject: FW: Last Minute Abatement - Winter's M37 Claim

Deb:

Winters (R-8) does not want to go forward with the hearing before the Board today.

You should read the agenda item and then say:

"Land Use Planning has received a request from the representative for the Measure 37 claimant, Winters, to postpone this matter indefinitely. Land Use Planning and the County Attorney's Office have no objection to the postponement."

If anyone on the Board has a question I will explain that LUP gives all claimants with facially invalid claims the option of abating the matter until the courts decide the legal issues on land divisions and transferability, or to go forward with the hearing and going to court to challenge any adverse ruling. This claimant is just choosing to do this much later than other claimants.

Sandy

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

From: BARBER Adam T
Sent: Tuesday, August 15, 2006 4:18 PM
To: DUFFY Sandra N; SCHILLING Karen C
Subject: Last Minute Abatement - Winter's M37 Claim

Sandy and Karen,

I just received a call from the firm representing the Winter's M37 claim scheduled in front of the Board this Thursday. They want to see if they can put the board hearing on hold for now to see how things work out in the courts later with respect to land divisions and transferability.

Is the abatement option still an option at this point?

Adam Barber, CPESC
Land Use Planner

Multnomah County, Oregon
ph: 503-988-3043 x 22599
fax: 503-988-3389
adam.t.barber@co.multnomah.or.us

BOGSTAD Deborah L

From: BOGSTAD Deborah L
Sent: Wednesday, August 16, 2006 9:21 AM
To: SOWLE Agnes; Diane Linn; Lisa Naito; Lonnie Roberts; Maria ROJO DE STEFFEY; Serena Cruz
Cc: Andy Smith; April FERNANDES; Carol WESSINGER; Chuck Martin; Darcy Miles; David MARTINEZ; Delma FARRELL; Gary Walker; Iris BELL; Judith Shiprack; Kathryn GORDON; Kristen WEST; Lily NOCHES; Mary Carroll; Matt LIEUALLEN; Matthew LASHUA; Mike BEARD; Rob FUSSELL; Tara BOWEN-BIGGS; Terri Naito; Thomas BRUNER
Subject: FW: Last Minute Abatement - Winter's M37 Claim

Importance: High

See the email trail below, regarding R-8 on Thursday's Board meeting agenda. I'm directed to read the title and the statement Sandy prepared. Then Chair Linn will ask the Board for a motion, second and vote to postpone indefinitely.

I have been alerted there will be several people coming to testify regarding R-9, the Kent and June Meyer Measure 37 Claim, so there should be plenty of time for that hearing. Thank you.

Deb Bogstad, Board Clerk
Multnomah County Commissioners
501 SE Hawthorne Boulevard, Suite 600
Portland, Oregon 97214-3587
(503) 988-3277 phone
(503) 988-3013 fax
deborah.l.bogstad@co.multnomah.or.us
<http://www.co.multnomah.or.us/cc/index.shtml>

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MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: Aug 17 2006

SUBJECT: Claim of Howard Winters

AGENDA NUMBER OR TOPIC: _____

FOR: _____ AGAINST: X THE ABOVE AGENDA ITEM

NAME: Dr. Gordon Fulks

ADDRESS: 28812 E. Woodard Rd

CITY/STATE/ZIP: Troutdale OR 97060

PHONE: _____ DAYS: 971 404 0350 EVES: _____

EMAIL: _____ FAX: _____

SPECIFIC ISSUE: Impacts, lack of urban infrastructure

WRITTEN TESTIMONY: to be provided

IF YOU WISH TO ADDRESS THE BOARD:

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

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

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

Gordon J. Fulks, Ph.D.

28812 E. Woodard Road
Troutdale, Oregon 97060

August 17, 2006

Board of Commissioners
Diane Linn, Chair
Multnomah County
501 SE Hawthorne Boulevard, Suite 600
Portland, Oregon 97214

Reference: Opposition to Howard Winter's Claim, Case File T1-06-008

Gentlemen:

I am writing to oppose the Measure 37 Claim from Howard Winters because it would adversely affect me and all of Mr. Winters other neighbors.

I concur with staff recommendations for denial of this claim. While they take a very narrow legalistic view of Mr. Winters' application, I would like to point out that there are a vast number of other reasons to oppose his claim. Some of these reasons involve broad Constitutional issues of equal protection under the law, many involve Health and Safety issues, some involve the original owners of the land (native Americans) whose artifacts have been found on the subject property, and, of course, there needs to be a thorough consideration of the availability of governmental services (especially roads, water, sewer, and schools) in a rural area that was never designed for urban development.

I own the 29 acres just to the north of the Winters' property along the Sandy River. We bought our property with the full knowledge that this was rural property that came with restrictions applicable to us and to all of our neighbors. That meant we had a good deal of flexibility within the allowed uses in a rural area but could not develop our property into an urban setting. That was fine with us as long as our neighbors had to live by the same rules.

Now Mr. Winters wants to be able to violate existing regulations for the sole reason of making a quick dollar at the expense of his neighbors. That violates all concepts of fairness and equal protection under the law. The most basic concept of constitutional law is an equal applicability to all. Mr. Winters cannot claim that only 1945 laws and regulations apply to him because he bought his property 1945 and 2006 laws apply to the rest of us. That's ludicrous!

Measure 37 (as advertised) was intended to allow a one time adjustment of regulations to permit an owner to build or be compensated, if he was significantly wronged. When Mr. Winters

bought his property in 1945 (?), he probably had a lot of flexibility in what he could theoretically do with the property as far as land use regulations went. But could he really have built a subdivision? *NO, the economic conditions did not exist.* No banker in his right mind would have leant money on a subdivision in far eastern Multnomah county. The suburbs of Portland were many miles to the west. Hence, Mr. Winters is no worse off today than he was in 1945. Multnomah county has merely steered the urban growth area to the south and east, leaving the urban growth boundary at the Sandy River. Of course, Mr. Winters thinks that he deserves to make a killing off of his land. If he had purchased a similar farm on the west side of the Sandy, he would have.

All of us who are investors know that some investments work out better than others. It is absurd to view government with its supposed deep pockets as the ultimate guarantor of our investments. If Mr. Winters were to be given \$3,000,000, it would be an outright gift of public funds that would have to come out of the pockets of everyone else in this county. I am not in favor of higher taxes!

In our increasingly crowded world, government's role is to regulate our lives for the maximum public good. In the present instance that has meant regulating land uses east of the Sandy so that all of us including Mr. Winters benefit. *His property like the rest of ours has grown enormously in value precisely because Multnomah County has kept out inappropriate land uses.* Even if we can find fault with some of the specifics of your regulations, we certainly have to thank you for keeping the urban blight that has so thoroughly ruined other areas at bay in the Portland area.

I do not disagree with Mr. Winters on all counts. If he wants to build a new house for himself under Measure 37, I have no objection. If he wants to make reasonable changes to the way he uses his land within existing regulations, I would be receptive. If he wants to petition for changes in the regulations applicable to him and the rest of us, we will listen. But all changes must comply with modern Health and Safety Regulations.

I also agree with Mr. Winters often stated view that agriculture and urbanization are incompatible. He repeatedly complains that city folks move out into the country and expect farmers like him to curtail their farming because their new neighbors do not like the noise, smell, dust, pesticides, etc that are part of a modern farm. Now, in an outrageous about face, Mr. Winters proposes to victimize his existing neighbors by planting houses right next to their agricultural operations. While it might be amusing for me to continue renting some of my land to Mr. Winters to grow sweet corn and watch him field all the complaints from the new subdivision he wants to build, the net result will probably be a discontinuation of that agriculture to my financial loss. I have a large bee operation (run by Russian immigrants) that was moved outside the urban growth boundary because of complaints from city folks. If you allow the Winters subdivision, we will be fielding endless unwarranted complaints. I also have beef cattle grazing on my land. City folks do not like the smell.

Part of my land is in commercial forest with huge old growth Douglas firs. Many of these are along or close to Mutch Road. This narrow one-lane dirt road is a county road (although Mr.

Winters likes to claim it). Since this is the only access to most of his property above the Sandy River cliffs, I presume that it would become a thoroughfare for a new subdivision. That would place my forest at a severe risk from fire. Even in the driest times I frequently see cigarets tossed from moving vehicles on Oregon roads. The many charred areas along our roads attest to the fires that these cause.

The center of my property is maintained as a wildlife area with a great abundance of creatures great and small. Metro has called it a "very high value wildlife area." We have Pileated woodpeckers which are the largest surviving North American woodpecker and a species of concern. We have black bears, cougars, deer, racoons, skunks, possums, and bats to name a few mammals. Because we are on a flyway along the Sandy, we have a great number of birds from huge Canada Geese and various Hawks to small goldfinches and bushtits. All of these are at risk from urbanization. Even if we maintain our property as it is today, the proposed Winters development will turn us into an island cut-off from other natural areas. City folks will not appreciate deer eating their roses and cougars sunning on their lawn. The deer and cougar do not understand property boundaries. Loss of contiguous habitat spells the loss of wildlife. It is hard to quantify that loss because it is more significant than just money.

Of course, there are many other issues that are too lengthy to spell out in detail at this stage. I am thinking of Health and Safety issues such as traffic along the dangerous Woodard Road. We have had people life-flighted off this road because of wrecks at a dangerous curve one kilometer up from the Columbia River Highway. Accidents are common. The road was not designed for heavy traffic and/or idiot drivers. Unless Multnomah County has millions of extra dollars or Mr. Winters kicks in millions, existing problems are not going to get fixed, let alone new problems created by the large increase in traffic he proposes.

Large subdivisions need large amounts of water from the local public utility. The Corbett Water District is very near the maximum water it can deliver during the dry summer months. Corbett is allowed a maximum water right of 2 cubic feet per second (15 gallons per second) diverted out of Gordon Creek. In August, that is very close to the needs of the 1,000 existing customers. Adding 3% more customers would cause shortages and rationing. The Corbett Water District recently spent close to a million dollars installing a new one million gallon storage tank to alleviate existing shortages on hot days. More demand could be accommodated with more storage but the district will not be able to obtain another million dollar loan for many years. That would mean that the county or Mr. Winters would have to foot the next million dollar bill.

Corbett does not have any sewage treatment facilities and a large increase in the number of septic systems will threaten public health. Mr. Winters' property already has problems with unstable slopes and slippage. Heavy rain storms unleash large floods of mud and debris over the cliffs onto the Scenic Highway and (all too frequently) into homes and businesses along the Sandy River. Mitigating these problems could be extremely expensive for Mr. Winters.

Because we all thought that we could rely on Oregon land use planning, Corbett Schools were designed for the present population with perhaps a slow increase. Dramatically ramping up the school age population with a huge new subdivision will undoubtedly require large new

expenditures for our school system. In the recent election, Corbett voters gave a resounding NO to higher school taxes to avoid proposed cutbacks. It is a pretty safe bet that they will look even less favorably on building more classrooms for Mr. Winters. Of course, if he were to volunteer a couple of million dollars in impact fees to build a new wing on the school, he might get some support.

A rock quarry (considered in the state version of Mr. Winters' application) would be outrageous in this setting. The State of Oregon recently turned down a request from the Howard Canyon Rock Quarry to expand operations. The noise, blasting, and heavy truck traffic are hardly compatible with this area and Multnomah County agreed after lengthy hearings and a huge public outcry. Now Howard Winters wants to set up 'Howard Canyon West Quarry.' He will find himself in one hell of a fight over that.

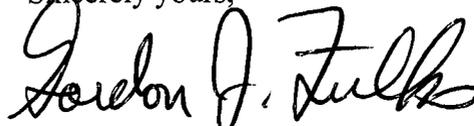
But why is the state even talking about the property Mr. Winters owns in the Columbia Gorge National Scenic Area? Even if the state approved his request or anybody else's similar request to harm a national treasure, the feds will not let him do it. While I am not always happy with every federal regulation, I think the federal government is entirely correct in protecting the Columbia Gorge.

Yes, it really comes down to that. Regulations are a mixed blessing. Sometimes they are unreasonable, and bureaucrats refuse to make them work fairly. But in the aggregate they are an enormous benefit to those of us living in an increasingly crowded world. We expect others to behave rationally and they in turn expect us to behave rationally. Laws, regulations, and rules codify expected conduct. We all must obey the same set of laws, not exempting some from certain laws just for the sake of money. In the case of Mr. Winters, he would have been very unhappy if a power plant, chemical plant, or sewage treatment facility had been built across the Sandy from him in the absence of land use planning .

Because of land use regulations, the value of his property has been fully protected and has not decreased. It has greatly increased. Please do not let Mr. Winters diminish all of his neighbor's property values and quality of life just for a quick buck.

Please reject Mr. Winters' outrageous Measure 37 claim.

Sincerely yours,

A handwritten signature in black ink that reads "Gordon J. Fulks". The signature is written in a cursive, flowing style.

Gordon J. Fulks, Ph.D.



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

Board Clerk Use Only

Meeting Date: 08/17/06
 Agenda Item #: R-9
 Est. Start Time: 10:00 AM
 Date Submitted: 07/24/06

BUDGET MODIFICATION: -

Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by Kent and June Meyer for \$300,000 in Compensation or Relief from Regulations to
Agenda Title: Allow a 3 Parcel Land Division on Property Located at 19544 NW Sauvie Island Road [T2N, R 1W, SEC 08, TL 1100] (Case File T1-06-009)

Date Requested: <u>August 17, 2006</u>	Time Requested: <u>30 mintues</u>
Department: <u>Community Services</u>	Division: <u>Land Use & Transportation</u>
Contact(s): <u>Derrick Tokos, Adam Barber, Sandra Duffy</u>	
Phone: <u>503-988-3043</u> Ext. <u>22682</u>	I/O Address: <u>455/116</u>
Presenter(s): <u>Adam Barber, Sandra Duffy</u>	

General Information

1. What action are you requesting from the Board?

Action requested is to provide a public hearing and render a decision regarding a Measure 37 claim by Kent and June Meyer for a 3 parcel land division on property located at 19544 NW Sauvie Island Road. Land use planning has outlined an approach to deciding this claim in a staff report dated July 24, 2006.

2. Please provide sufficient background information for the Board and the public to understand this issue.

For a claim to be valid, the land use regulations challenged must restrict the claimants use of private real property in a manner that reduces the fair market value of the property relative to how the property could have been used at the time the claimants acquired the property. As outlined in the staff report and memorandum from the County Attorney's Office dated June 8th, 2006, this requirement has not been met.

The claimants, Kent and June Meyer, are seeking \$300,000 in compensation or relief from land use regulations to allow the 6.44 acre property to be divided into 3 parcels with homes on each parcel. They acquired the property on April 11, 1973. County zoning for the property in 1973 was F-2

Agricultural. The minimum lot size in this agriculture, grazing, horticulture, and timber district was 2 acres. Current Exclusive Farm Use (EFU) zoning requires newly created properties from a land division to be at least 80-acres in size and generally limit the establishment of new dwellings to those that are necessary for farm purposes. The claimants are challenging these EFU zoning requirements.

The use the claimants assert has been restricted is their ability to partition the properties so that the resulting parcels can be sold for development. They also want the ability to market the property as dividable so that someone else can do the division and are only interested in regulatory relief if they can transfer the right to partition and develop the properties. Multnomah County's interpretation of the law as reflected in its Measure 37 ordinance is that dividing property in itself is not a 'use' of land subject to the provisions of Measure 37 and that development rights gained through a waiver are personal to the claimants and will result in no restriction in use if transferred to a third party. No restriction in use would occur for the third party because they would not be able to divide the property or develop a newly purchased parcel (were the claimants to divide) because they would be subject to the current Exclusive Farm Use regulations which prohibit the partition and dwellings.

Similarly, there is no reduction to the value of the property relative to use claimed because development rights cannot be transferred. Even if a partition could have been approved at the time the owners acquired the property, Measure 37 rights are personal to the claimants and are of no value to a new owner. Exclusive Farm Use zoning regulations would be applied once a newly created parcel is sold to a new owner. These regulations would prohibit the establishment of a dwelling on the property rendering it unbuildable. Because the resulting parcels would have no development value, no reduction in value will occur as compared to the present value of the property under the current EFU zoning regulations (i.e. three, 2 acre parcels are of no more value as farmland than a 6 acre property).

It is for these reasons that staff recommends the Board of Commissioners deny this claim

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

The claimants assert a reduction in value of \$300,000; however, this dollar figure is not supported by an appraisal prepared in accordance with the county ordinance. Staff does not believe any compensation is due because the claim is invalid.

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

Policy and legal issues are outlined in a staff report from Land Use Planning dated July 24, 2006. The County Attorney has advised that any property rights obtained by relief from land use regulations are not transferable under Ballot Measure 37, consistent with the DOJ opinion of February 2005.

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

Public notice of this hearing will be mailed to all property owners within 750 feet of the subject property. Deliberation and any action on this item will be done following a public hearing at which interested citizens will have an opportunity to testify and provide written comment in accordance with the Board of Commissioners rules of procedure for the hearing.

Required Signatures

**Department/
Agency Director:**

M. Cecilia Johnson

Date: 07/24/06

Budget Analyst:

Date:

Department HR:

Date:

Countywide HR:

Date:



**LAND USE & TRANSPORTATION
PLANNING PROGRAM**

1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
<http://www.co.multnomah.or.us/landuse>

Staff Analysis of a Measure 37 Claim

The following matter is scheduled for public hearing, deliberation and possible action before the Multnomah County Board of Commissioners

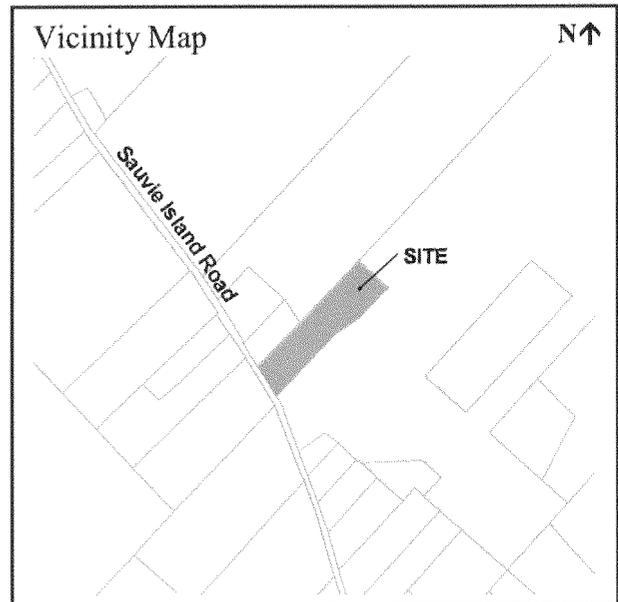
Hearing Date, Time, & Place:

August 17, 2006 at 9:30 am or soon thereafter, in the Commissioners' Board Room of the Multnomah Building, located at 501 SE Hawthorne, Portland, Oregon.

Case File: T1-06-009

Claimant: Kent & June Meyer

Location: 19544 NW Sauvie Island Road
TL 1100, Sec 08, 2N-1W



Claim: Compensation in the amount of \$300,000 or relief from land use regulations to allow the land to be divided into 3 parcels with homes on each parcel.

Zoning: Exclusive Farm Use (EFU)

Site Size: Total Acreage- 6.44 acres

Approach to Deciding the Claim:

For a claim to be valid, the land use regulations challenged must restrict the claimant's use of private real property in a manner that reduces the fair market value of the property relative to how the property could have been used at the time the claimants acquired the property. As outlined in this report and memorandum from the County Attorney's Office dated June 8th, 2006, this requirement has not been met because (a) dividing property in itself is not a "use" subject to the provisions of Measure 37, and (b) in any event, development rights gained through a waiver are personal to the claimants and cannot be transferred to a purchaser of a subdivided parcel. Since the rights are not transferable there has been no reduction in the fair market value of the property.

(The following is a step-by-step evaluation of the claim, which consists of the application materials submitted by Jill S. Gelineau, ESQ, applicant for the claimants. The analysis is structured as a series of questions that must be answered to establish if a claim is valid, comparable to the methodology outlined in a February 24th, 2005 memo authored by the State Attorney General's Office.)

1. ***Has the owner made a complete written demand under Ballot Measure 37?***

No. The materials submitted by the claimant do not constitute a complete written demand for compensation as required by Measure 37 and the county's code.

The claimants have not submitted an appraisal to substantiate the \$300,000 of diminished value asserted in the claim nor have they paid the \$1,500 processing deposit, both of which are required by MCC 27.520. Multnomah County Code 27.500 – 27.565 implements Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37 (ORS 197.352). These regulations, in part, provide the framework used to decide whether or not a claim is sufficiently complete, valid and eligible for compensation by either regulatory waiver or monetary compensation. Staff followed these guidelines to determine that the necessary contents of a written claim have not been submitted.

This claim was submitted to Multnomah County on October 19, 2005. On October 25th, the county sent the claimants a letter indicating the review would be suspended in light of the October 14th Marion County ruling MacPherson v. Department of Administrative Services finding Measure 37 unconstitutional. On February 24th, 2006, a letter was sent to the claimants indicating the review would again commence because three days earlier, Oregon's Supreme Court overturned this ruling. On March 21st, 2006, county staff provided a letter to the claimants outlining the outstanding information required for a complete claim pursuant to the provisions of MCC 27.500 – 27.565. This letter indicated the need for the \$1,500 processing deposit and appraisal to support the alleged reduction in value.

By May 3rd, 2006 the required information for a complete claim had not been submitted. A letter was mailed on that date to the claimants indicating that the county could either process the claim as an invalid claim, or put the claim on hold in order to see how the land division issue is resolved by the courts. We have not received a response to the May 3rd request and have therefore prepared this report.

2. ***Did the claimants acquire the properties before the laws in question were adopted?***

Yes. The chain of title provided by the claimants shows that they acquired the property prior to the date the challenged regulations were adopted.

County assessment records show that the claimants are the current owners of Tax Lot 1100. A title report, dated August 1, 2005, shows that they acquired the property on April 11, 1973 and have maintained an ownership interest in the land since that date. County zoning at that time was F-2 Agricultural. The minimum lot size in this agriculture, grazing, horticulture, and timber district was 2 acres (§2.10, Ord. #100). The zoning changed from F-2 to RL-C on December 5, 1975 (38 ac. min. lot size), to Exclusive Farm Use-38 on October 6, 1977 (76 acre min. lot size), and to Exclusive Farm Use on August 14, 1980. Current Exclusive Farm Use (EFU) zoning requires newly created properties from a land division to be at least 80-acres in size (MCC 34.2660(A)). EFU rules also generally limit the establishment of new dwellings to those that are necessary for farm purposes (§34.2600 et. seq.). The claimants challenge the EFU regulations in their claim letter. In conclusion, the claimants have established that they acquired an interest in the property prior to the county adopting the EFU regulations.

3. *Have the challenged regulations restricted the use of the properties for the claimant?*

No. The claimant has failed to establish that the challenged regulations have restricted their use of the property.

The use the claimants assert has been restricted is their ability to partition the properties so that the resulting parcels can be sold for development. They also want the ability to market the property as dividable so that someone else can do the division and are only interested in regulatory relief if they can transfer the right to partition and develop the properties. Multnomah County's interpretation of the law as reflected in its Measure 37 ordinance is that dividing property in itself is not a 'use' of land subject to the provisions of Measure 37 and that development rights gained through a waiver are personal to the claimants and will result in no restriction in use if transferred to a third party. No restriction in use would occur for the third party because they would not be able to divide the property or develop a newly purchased parcel (were the claimants to divide) because they would be subject to the current Exclusive Farm Use regulations which prohibit the partition and dwellings.

This legal issue is analyzed in detail within a memo prepared by the Assistant County Attorney, Sandra Duffy, dated June 8, 2006. For the reasons outlined in this legal memorandum, staff finds this claim seeking the right to partition the property to be invalid.

4. *Have the regulations reduced the fair market value of the properties?*

No. The claimants have failed to establish that the challenged regulations have reduced the fair market value of the property.

A reduction in value has not occurred because development rights cannot be transferred. Even if a partition could have been approved at the time the owners acquired the property, Measure 37 rights are personal to the claimants and are of no value to a new owner. For instance, the current Exclusive Farm Use zoning regulations would be applied once a newly created parcel is sold to a new owner. These regulations would prohibit the establishment of a dwelling on the property rendering it unbuildable. Because the resulting parcels would have no development value, no reduction in value will occur as compared to the present value of the property under the current EFU zoning regulations (i.e. three, 2 acre parcels are of no more value as farmland than a 6 acre property).

PUBLIC NOTICE

Public notice of this hearing was mailed to all property owners within 750 feet of the subject property. Deliberation and any action on this item will be done following a public hearing at which interested citizens will have an opportunity to testify and provide written comment in accordance with the Board of Commissioners rules of procedure for the hearing.

CONCLUSION

In conclusion, the claimants have failed to establish that regulations preventing them (or others) from dividing the property so that a third party can develop homes on the new parcels has resulted in a restriction of their use of the land and reduction in its value. Dividing property is not a "use" subject to the provisions of Measure 37 and, in any event, development rights gained through a waiver are personal to the claimants and cannot be transferred to a purchaser.

Consequently, staff recommends that the Board of Commissioners deny this claim.

Issued by:

By: 
Adam Barber, Planner



For: Karen Schilling, Planning Director

Date: Monday, July 24, 2006

Exhibits

Copies of the documents referenced herein are in the case record that is on file at the Land Use and Transportation Planning Office.

Script for Kent and June Meyer Measure 37 Hearing

INTRODUCTION:

Chair: This is the time set for public hearing on the claim of **KENT AND JUNE MEYER** under Ballot Measure 37. I am Diane Linn, Chair of the Multnomah County Board of Commissioners. Also in attendance are Commissioners _____ [name each Commissioner].

All information relevant to the claim may be submitted and will be considered in this hearing. The evidence may be in any form including oral and written testimony, letters, petitions or other written material, slides, photographs, maps drawings or other items.

The Commission will base its decision on the evidence presented, along with the information on the claim in the Planning file. The Board decision will be by Order adopted by the Board.

DISCLOSURES:

Chair: Board members are required to disclose the content of any *ex parte* contacts. Any Board member who has received any factual information obtained outside the information provided by the county planning staff or this hearing is an *ex parte* contact. A visit to the property is considered an *ex parte* contact. Any *ex parte* contacts should be disclosed at this time. Such disclosures should include the time and date of the visit, what he/she observed, who (if anyone) the Commissioner talked to at the site and any other relevant facts or observations obtained as a result of the site visit.

Chair: I have *no ex parte* contacts to disclose.

or if the Chair has disclosures to make

I have the following disclosures to make: _____

Chair: [Invite the other Commissioners to make any necessary disclosures.)
Commissioner Rojo de Steffey? Commissioner Naito? Commissioner Cruz?
Commissioner Roberts? [If there are none, each Commissioner should say "none" on the record.]

[If there are disclosures of *ex parte* contacts, the claimant and the public should be given an opportunity to rebut the substance of any disclosure. "Does anyone have any rebuttal testimony relating to any disclosure?"]

Chair: Board members are also required to disclose any conflicts of interest and to recuse themselves from deliberation and voting if a conflict exists. It is deemed a conflict of interest if any Board member, or a member of his/her immediate family or household, has a financial interest in the outcome of a matter before the Board. It is a conflict of interest if a Board member lives within the geographical area entitled to notice of a claim.

Script for Kent and June Meyer Measure 37 Hearing

Chair: Does any Board member, or a member of his/her immediate family or household, have a financial interest in the outcome of matter now before us?

I do [do not] have a financial interest in the outcome of this matter. [Invite other commissioners to make any necessary disclosures.] Rojo de Steffey? Naito? Cruz? Roberts? [If yes, that person must recuse himself/herself on the record.]

Does any Board member live within the geographical area entitled to notice of claim?

I do [do not] live within the geographical area. Rojo de Steffey? Naito? Cruz? Roberts?

[Any commissioner who lives within the relevant geographical area must recuse himself/herself. MCC 7.540]

CONDUCT OF THE HEARING:

Chair: I will ask for testimony and other evidence in the following order:

1. Staff report
2. Claimant or claimant's representative
3. Others who wish to be heard on the claim
4. Commission discussion, questions, deliberation
5. Future scheduling if necessary

HOW TO PRESENT TESTIMONY:

Chair: There are testimony cards at the back of the room and should be filled out by anyone wishing to testify. The claimant need not fill out a card. The cards should be given to the Board Clerk.

1. State your name and address before you begin your presentation
2. Avoid repetitive testimony
3. During the hearing, I ask those in the audience to refrain from any demonstration in support or opposition to the claim.

Chair: [Ask for testimony in the order listed above]

AT THE CONCLUSION OF THE TESTIMONY:

Chair: [Ask for Board discussion, questions, deliberation, motion and/or future scheduling if necessary]

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BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. _____

Order Denying Measure 37 Request of Kent and June Meyer Relating to Real Property Located at 19544 NW Sauvie Island Road

The Multnomah County Board of Commissioners Finds:

- a. **Parties: Kent and June Meyer** are the Ballot Measure 37 Claimants who filed a demand for compensation to Multnomah County on October 19, 2005.
- b. **Subject Real Property:** This claim relates to real property located at 19544 NW Sauvie Island Road, Multnomah County, Portland, Oregon, more specifically described as:

TL 1100, Sec 08, 2N-1W

- c. **Adequacy of Demand for Compensation:**
The materials submitted by the claimant do not constitute a complete written demand for compensation as required by Multnomah County Code 27.520.

This claim was submitted to Multnomah County on October 19, 2005. On October 25th, the county sent the claimants a letter indicating the review would be suspended in light of the October 14th Marion County ruling MacPherson v. Department of Administrative Services finding Measure 37 unconstitutional. On February 24, 2006, a letter was sent to the claimants indicating the review would again commence because three days earlier, Oregon's Supreme Court overturned this ruling. On March 21, 2006, county staff provided a letter to the claimants outlining the outstanding information required for a complete claim pursuant to the provisions of MCC 27.500 – 27.565. This letter indicated the need for the \$1,500 processing deposit and appraisal to support the alleged reduction in value.

By May 3, 2006 the required information for a complete claim had not been submitted. A letter was mailed on that date to the claimants indicating that the county could either process the claim as an invalid claim, or put the claim on hold in order to see how the land division issue is resolved by the courts. We have not received a response to the May 3rd request and have therefore prepared this report.

The Board finds that the materials submitted by the claimant do not constitute a complete written demand for compensation as required by Measure 37 and the county's code.

- d. **Relevant Dates of Property Ownership:**
County assessment records show that the claimants are the current owners of Tax Lot 1100. A title report, dated August 1, 2005, shows that they acquired the property on April 11, 1973 and have maintained an ownership interest in the land since that date.

DRAFT

County zoning at that time was F-2 Agricultural. The minimum lot size in this agriculture, grazing, horticulture, and timber district was 2 acres (§2.10, Ord. #100). The zoning changed from F-2 to RL-C on December 5, 1975 (38 ac. min. lot size), to Exclusive Farm Use-38 on October 6, 1977 (76 acre min. lot size), and to Exclusive Farm Use on August 14, 1980. Current Exclusive Farm Use (EFU) zoning requires newly created properties from a land division to be at least 80-acres in size (MCC 34.2660(A)). EFU rules also generally limit the establishment of new dwellings to those that are necessary for farm purposes (§34.2600 et. seq.). The claimants challenge the EFU regulations in their claim letter. The claimants have established that they acquired an interest in the property prior to the county adopting the EFU regulations.

The Board finds that the chain of title provided by the claimants show that they acquired the property prior to the date the challenged regulations were adopted and have owned it continuously.

e. **County Codes as a Restriction on Use of the Property:**

The use the claimants assert has been restricted is their ability to partition the properties so that the resulting parcels can be sold for development. They also want the ability to market the property as dividable so that someone else can do the division and are only interested in regulatory relief if they can transfer the right to partition and develop the properties. Multnomah County's interpretation of the law as reflected in its Measure 37 ordinance is that dividing property in itself is not a 'use' of land subject to the provisions of Measure 37 and that development rights gained through a waiver are personal to the claimants and will result in no restriction in use if transferred to a purchaser. No restriction in use would occur for the purchaser because they would not be able to divide the property or develop a newly purchased parcel (were the claimants to divide) because they would be subject to the current Exclusive Farm Use regulations which prohibit the partition and dwellings.

This legal issue is analyzed in detail within a memo prepared by the Assistant County Attorney, Sandra Duffy, dated June 8, 2006. For the reasons outlined in this legal memorandum, staff found that this claim seeking the right to partition the property was invalid.

The Board finds that the claimant has failed to establish that the challenged regulations have restricted their use of the property.

f. **County Code Restrictions Reduce Fair Market Value:**

A reduction in value has not occurred because development rights cannot be transferred. Even if a partition could have been approved at the time the owners acquired the property, Measure 37 rights are personal to the claimants and are of no value to a new owner. For instance, the current Exclusive Farm Use zoning regulations would be applied once a newly created parcel is sold to a new owner. These regulations would prohibit the establishment of a dwelling on the property rendering it unbuildable. Because the resulting parcels would have no development value, no reduction in value will occur as compared to the present value of the property under the current EFU zoning

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regulations (i.e. three, 2 acre parcels are of no more value as farmland than a 6 acre property).

The Board finds that the claimants have failed to establish that the challenged regulations have reduced the fair market value of the property.

h. Validity of Claim for Compensation: The Board finds that:

(1) The claim materials submitted by the claimants do not constitute a complete written demand for compensation as required by Measure 37 and Multnomah County Code 27.530.

(2) The chain of title provided by the claimants show that they acquired the property prior to the date the challenged regulations were adopted and have owned it continuously.

(3) There has been no restriction in use because Multnomah County's interpretation of the law as reflected in its Measure 37 ordinance is that dividing property in itself is not a 'use' of land subject to the provisions of Measure 37 and that development rights gained through a waiver are personal to the claimants and will result in no restriction in use if transferred to a purchaser.

(4) A reduction in value has not occurred because development rights cannot be transferred. Even if a partition could have been approved at the time the owners acquired the property, Measure 37 rights are personal to the claimants and are of no value to a new owner. Because the resulting parcels would have no development value, no reduction in value will occur as compared to the present value of the property under the current EFU zoning regulations.

The Multnomah County Board of Commissioners Orders:

Claimant, Kent and June Meyers' request is denied.

ADOPTED this 17th day of August, 2006.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY

DRAFT

FOR MULTNOMAH COUNTY, OREGON

By _____
Sandra Duffy, Assistant County Attorney

DRAFT

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. _____

Order Denying Measure 37 Request of Kent and June Meyer Relating to Real Property Located at 19544 NW Sauvie Island Road

The Multnomah County Board of Commissioners Finds:

- a. **Parties: Kent and June Meyer** are the Ballot Measure 37 Claimants who filed a demand for compensation to Multnomah County on October 19, 2005.
- b. **Subject Real Property:** This claim relates to real property located at 19544 NW Sauvie Island Road, Multnomah County, Portland, Oregon, more specifically described as:

TL 1100, Sec 08, 2N-1W

- c. **Adequacy of Demand for Compensation:**
The materials submitted by the claimant do not constitute a complete written demand for compensation as required by Multnomah County Code 27.520.

This claim was submitted to Multnomah County on October 19, 2005. On October 25th, the county sent the claimants a letter indicating the review would be suspended in light of the October 14th Marion County ruling MacPherson v. Department of Administrative Services finding Measure 37 unconstitutional. On February 24, 2006, a letter was sent to the claimants indicating the review would again commence because three days earlier, Oregon's Supreme Court overturned this ruling. On March 21, 2006, county staff provided a letter to the claimants outlining the outstanding information required for a complete claim pursuant to the provisions of MCC 27.500 – 27.565. This letter indicated the need for the \$1,500 processing deposit and appraisal to support the alleged reduction in value.

By May 3, 2006 the required information for a complete claim had not been submitted. A letter was mailed on that date to the claimants indicating that the county could either process the claim as an invalid claim, or put the claim on hold in order to see how the land division issue is resolved by the courts. We have not received a response to the May 3rd request and have therefore prepared this report.

The Board finds that the materials submitted by the claimant do not constitute a complete written demand for compensation as required by Measure 37 and the county's code.

- d. **Relevant Dates of Property Ownership:**
County assessment records show that the claimants are the current owners of Tax Lot 1100. A title report, dated August 1, 2005, shows that they acquired the property on April 11, 1973 and have maintained an ownership interest in the land since that date.

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County zoning at that time was F-2 Agricultural. The minimum lot size in this agriculture, grazing, horticulture, and timber district was 2 acres (§2.10, Ord. #100). The zoning changed from F-2 to RL-C on December 5, 1975 (38 ac. min. lot size), to Exclusive Farm Use-38 on October 6, 1977 (76 acre min. lot size), and to Exclusive Farm Use on August 14, 1980. Current Exclusive Farm Use (EFU) zoning requires newly created properties from a land division to be at least 80-acres in size (MCC 34.2660(A)). EFU rules also generally limit the establishment of new dwellings to those that are necessary for farm purposes (§34.2600 et. seq.). The claimants challenge the EFU regulations in their claim letter. The claimants have established that they acquired an interest in the property prior to the county adopting the EFU regulations.

The Board finds that the chain of title provided by the claimants show that they acquired the property prior to the date the challenged regulations were adopted and have owned it continuously.

e. **County Codes as a Restriction on Use of the Property:**

The use the claimants assert has been restricted is their ability to partition the properties so that the resulting parcels can be sold for development. They also want the ability to market the property as dividable so that someone else can do the division and are only interested in regulatory relief if they can transfer the right to partition and develop the properties. Multnomah County's interpretation of the law as reflected in its Measure 37 ordinance is that dividing property in itself is not a 'use' of land subject to the provisions of Measure 37 and that development rights gained through a waiver are personal to the claimants and will result in no restriction in use if transferred to a purchaser. No restriction in use would occur for the purchaser because they would not be able to divide the property or develop a newly purchased parcel (were the claimants to divide) because they would be subject to the current Exclusive Farm Use regulations which prohibit the partition and dwellings.

This legal issue is analyzed in detail within a memo prepared by the Assistant County Attorney, Sandra Duffy, dated June 8, 2006. For the reasons outlined in this legal memorandum, staff found that this claim seeking the right to partition the property was invalid.

The Board finds that the claimant has failed to establish that the challenged regulations have restricted their use of the property.

f. **County Code Restrictions Reduce Fair Market Value:**

A reduction in value has not occurred because development rights cannot be transferred. Even if a partition could have been approved at the time the owners acquired the property, Measure 37 rights are personal to the claimants and are of no value to a new owner. For instance, the current Exclusive Farm Use zoning regulations would be applied once a newly created parcel is sold to a new owner. These regulations would prohibit the establishment of a dwelling on the property rendering it unbuildable. Because the resulting parcels would have no development value, no reduction in value will occur as compared to the present value of the property under the current EFU zoning

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regulations (i.e. three, 2 acre parcels are of no more value as farmland than a 6 acre property).

The Board finds that the claimants have failed to establish that the challenged regulations have reduced the fair market value of the property.

g. **Validity of Claim for Compensation:** The Board finds that:

(1) The claim materials submitted by the claimants do not constitute a complete written demand for compensation as required by Measure 37 and Multnomah County Code 27.530.

(2) The chain of title provided by the claimants show that they acquired the property prior to the date the challenged regulations were adopted and have owned it continuously.

(3) There has been no restriction in use because Multnomah County's interpretation of the law as reflected in its Measure 37 ordinance is that dividing property in itself is not a 'use' of land subject to the provisions of Measure 37 and that development rights gained through a waiver are personal to the claimants and will result in no restriction in use if transferred to a purchaser.

(4) A reduction in value has not occurred because development rights cannot be transferred. Even if a partition could have been approved at the time the owners acquired the property, Measure 37 rights are personal to the claimants and are of no value to a new owner. Because the resulting parcels would have no development value, no reduction in value will occur as compared to the present value of the property under the current EFU zoning regulations.

The Multnomah County Board of Commissioners Orders:

Claimant, Kent and June Meyers' request is denied.

ADOPTED this 17th day of August, 2006.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Sandra Duffy, Assistant County Attorney

#1

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 8/17/06

SUBJECT: KENT & JUNE MEYER T1-06-009

AGENDA NUMBER OR TOPIC: T1-06-009 R-9

FOR: _____ AGAINST: X THE ABOVE AGENDA ITEM

NAME: STUART SANDLER

ADDRESS: 19419 NW REEDER RD

CITY/STATE/ZIP: PORTLAND, OR 97231

PHONE: DAYS: 503-681-3855 EVES: SAME

EMAIL: 52WES@SPIRITONE.COM FAX: _____

SPECIFIC ISSUE: PROP 37 APPLICATION, SUPPORT
LAND USE RECOMMENDATION TO DENY

WRITTEN TESTIMONY: NR

IF YOU WISH TO ADDRESS THE BOARD:

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

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

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

#2

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

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

MEETING DATE: 08.17.06

SUBJECT: T1-06009 meas 31 claim - Meyer property

AGENDA NUMBER OR TOPIC: T1-06-009 Meyer Claim R-9

FOR: _____ AGAINST: X THE ABOVE AGENDA ITEM

NAME: Cindy Reid (mail) | Street -

ADDRESS: PO Box 83731 | 19004 NW Sawwies. Rd

CITY/STATE/ZIP: Portland, OR 97283 | 97231

PHONE: DAYS: (503) 621-3071 EVES: same

EMAIL: Cinbah@spintone.com FAX: _____

SPECIFIC ISSUE: support LandUse Rec to deny

(I may not testify - please have su sandler testify first)

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
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IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

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

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. 06-148

Order Denying Measure 37 Request of Kent and June Meyer Relating to Real Property Located at 19544 NW Sauvie Island Road

The Multnomah County Board of Commissioners Finds:

- a. **Parties: Kent and June Meyer** are the Ballot Measure 37 Claimants who filed a demand for compensation to Multnomah County on October 19, 2005.
- b. **Subject Real Property:** This claim relates to real property located at 19544 NW Sauvie Island Road, Multnomah County, Portland, Oregon, more specifically described as:

TL 1100, Sec 08, 2N-1 W

- c. **Adequacy of Demand for Compensation:**
The materials submitted by the claimant do not constitute a complete written demand for compensation as required by Multnomah County Code 27.520.

This claim was submitted to Multnomah County on October 19, 2005. On October 25th, the county sent the claimants a letter indicating the review would be suspended in light of the October 14th Marion County ruling MacPherson v. Department of Administrative Services finding Measure 37 unconstitutional. On February 24, 2006, a letter was sent to the claimants indicating the review would again commence because three days earlier, Oregon's Supreme Court overturned this ruling. On March 21, 2006, county staff provided a letter to the claimants outlining the outstanding information required for a complete claim pursuant to the provisions of MCC 27.500 – 27.565. This letter indicated the need for the \$1,500 processing deposit and appraisal to support the alleged reduction in value.

By May 3, 2006 the required information for a complete claim had not been submitted. A letter was mailed on that date to the claimants indicating that the county could either process the claim as an invalid claim, or put the claim on hold in order to see how the land division issue is resolved by the courts. We have not received a response to the May 3rd request and have therefore prepared this report.

The Board finds that the materials submitted by the claimant do not constitute a complete written demand for compensation as required by Measure 37 and the county's code.

- d. **Relevant Dates of Property Ownership:**
County assessment records show that the claimants are the current owners of Tax Lot 1100. A title report, dated August 1, 2005, shows that they acquired the property on April 11, 1973 and have maintained an ownership interest in the land since that date. County zoning at that time was F-2 Agricultural. The minimum lot size in this agriculture, grazing, horticulture, and timber district was 2 acres (§2.10, Ord. #100). The

zoning changed from F-2 to RL-C on December 5, 1975 (38 ac. min. lot size), to Exclusive Farm Use-38 on October 6, 1977 (76 acre min. lot size), and to Exclusive Farm Use on August 14, 1980. Current Exclusive Farm Use (EFU) zoning requires newly created properties from a land division to be at least 80-acres in size (MCC 34.2660(A)). EFU rules also generally limit the establishment of new dwellings to those that are necessary for farm purposes (§34.2600 et. seq.). The claimants challenge the EFU regulations in their claim letter. The claimants have established that they acquired an interest in the property prior to the county adopting the EFU regulations.

The Board finds that the chain of title provided by the claimants show that they acquired the property prior to the date the challenged regulations were adopted and have owned it continuously.

e. **County Codes as a Restriction on Use of the Property:**

The use the claimants assert has been restricted is their ability to partition the properties so that the resulting parcels can be sold for development. They also want the ability to market the property as dividable so that someone else can do the division and are only interested in regulatory relief if they can transfer the right to partition and develop the properties. Multnomah County's interpretation of the law as reflected in its Measure 37 ordinance is that dividing property in itself is not a 'use' of land subject to the provisions of Measure 37 and that development rights gained through a waiver are personal to the claimants and will result in no restriction in use if transferred to a purchaser. No restriction in use would occur for the purchaser because they would not be able to divide the property or develop a newly purchased parcel (were the claimants to divide) because they would be subject to the current Exclusive Farm Use regulations which prohibit the partition and dwellings.

This legal issue is analyzed in detail within a memo prepared by the Assistant County Attorney, Sandra Duffy, dated June 8, 2006. For the reasons outlined in this legal memorandum, staff found that this claim seeking the right to partition the property was invalid.

The Board finds that the claimant has failed to establish that the challenged regulations have restricted their use of the property.

f. **County Code Restrictions Reduce Fair Market Value:**

A reduction in value has not occurred because development rights cannot be transferred. Even if a partition could have been approved at the time the owners acquired the property, Measure 37 rights are personal to the claimants and are of no value to a new owner. For instance, the current Exclusive Farm Use zoning regulations would be applied once a newly created parcel is sold to a new owner. These regulations would prohibit the establishment of a dwelling on the property rendering it unbuildable. Because the resulting parcels would have no development value, no reduction in value will occur as compared to the present value of the property under the current EFU zoning regulations (i.e. three, 2 acre parcels are of no more value as farmland than a 6 acre property).

The Board finds that the claimants have failed to establish that the challenged regulations have reduced the fair market value of the property.

g. **Validity of Claim for Compensation:** The Board finds that:

(1) The claim materials submitted by the claimants do not constitute a complete written demand for compensation as required by Measure 37 and Multnomah County Code 27.530.

(2) The chain of title provided by the claimants show that they acquired the property prior to the date the challenged regulations were adopted and have owned it continuously.

(3) There has been no restriction in use because Multnomah County's interpretation of the law as reflected in its Measure 37 ordinance is that dividing property in itself is not a 'use' of land subject to the provisions of Measure 37 and that development rights gained through a waiver are personal to the claimants and will result in no restriction in use if transferred to a purchaser.

(4) A reduction in value has not occurred because development rights cannot be transferred. Even if a partition could have been approved at the time the owners acquired the property, Measure 37 rights are personal to the claimants and are of no value to a new owner. Because the resulting parcels would have no development value, no reduction in value will occur as compared to the present value of the property under the current EFU zoning regulations.

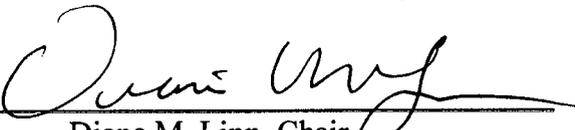
The Multnomah County Board of Commissioners Orders:

Claimant, Kent and June Meyers' request is denied.

ADOPTED this 17th day of August, 2006.

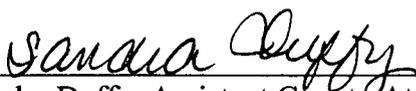


BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Sandra Duffy, Assistant County Attorney



**MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST**

Board Clerk Use Only

Meeting Date: 08/17/06
 Agenda Item #: R-10
 Est. Start Time: 10:15 AM
 Date Submitted: 08/08/06

BUDGET MODIFICATION:

Agenda Title: RESOLUTION Appointing Design Team Co-Chairs and Directing the Team to Begin the Planning Process for Multnomah County's Fiscal Year 2007-2008
Title: Budget

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

Date Requested: August 17, 2006 **Time Requested:** 10 minutes
Department: Non-Departmental **Division:** Commissioner District 2
Contact(s): Mary Carroll
Phone: 503-988-5275 **Ext.** 85275 **I/O Address:** 503/600
Presenter(s): Commissioner Serena Cruz Walsh

General Information

1. What action are you requesting from the Board?

Designate Chair Diane Linn, Commissioner Serena Cruz Walsh and Chair-Elect Ted Wheeler as Co-Chairs of the Design Team to guide the priority based budget process for FY 2007-08. The Design Team will also include representatives from each elected official's offices, representatives from labor and other appropriate staff as determined by the Co-Chairs.

2. Please provide sufficient background information for the Board and the public to understand this issue.

Since 2004, Multnomah County has employed a priority-based budget process to set County priorities and to adopt budgets that support those priorities. County Resolution 04-124 appointed Chair Linn and Commissioner Cruz Walsh as Co-Chairs of the Design Team. Both officials will leave office in December, 2006. This resolution appoints Chair-elect Wheeler as third Co-Chair in order to ensure a smooth budget transition for the Board for FY 2008.

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

The Design Team will guide the priority-based budget process which will set County priorities.

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

The Board will adopt a budget for FY 2007-08 using a priority-based budget approach. This resolution appoints the leadership of the Design Team that will guide the budget process.

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

The Design Team will work with Outcome Teams to update and refine strategies and goals under the County priorities. Outcome Teams consist of County staff and members of the public. The Design Team will also prepare and recommend an external and internal communication plan for the Board to consider.

Required Signatures

**Department/
Agency Director:**



Date: 08/08/06

Budget Analyst:

Date:

Department HR:

Date:

Countywide HR:

Date:

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Appointing Design Team Co-Chairs And Directing The Team To Begin The Planning Process For
Multnomah County's FY07-08 Budget

The Multnomah County Board of Commissioners Finds:

- a. In 2004 Multnomah County began implementing a priority based budgeting process to establish the County's priorities and to adopt budgets that fund programs that support the County's priorities.
- b. Resolution 04-124 established the Design Team and directed the Team to prepare budgetary information on the County's programs and priorities to make recommendations to the Board about the potential repeal of the tax and sunset of the tax.
- c. Since both of the current Design Team Co-Chairs will be leaving office on December 31, 2006, the Board needs to designate transition leadership of the Design Team that will involve the new County Chair who takes office in January 2007.

The Multnomah County Board of Commissioners Resolves:

1. The Design Team will be Co-Chaired by Chair-elect Ted Wheeler, Chair Linn and Commissioner Cruz Walsh.
2. The Design Team should include representatives from each elected officials' office, labor and other appropriate staff as determined by the Co-Chairs of the Team. The Budget Director will staff the Design Team.
3. The Design Team is directed to guide the priority based budget process and to make to make process improvement recommendations to the Board for FY07-08.
4. The Design Team will prepare and recommend to the Board the internal and external communication plan for the budget process.

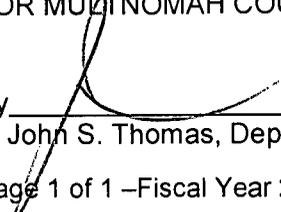
ADOPTED this 17th day of August 2006.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By  _____
John S. Thomas, Deputy County Attorney

BOGSTAD Deborah L

From: CRUZ Serena M
Sent: Thursday, August 03, 2006 3:27 PM
To: LINN Diane M
Cc: ROJO DE STEFFEY Maria; NAITO Lisa H; ROBERTS Lonnie J; FUSSELL Rob; BELL Iris D; BRUNER Thomas; Ford Carol M; DARGAN Karyne A; ted_wheeler@hotmail.com; CARROLL Mary P; MARTINEZ David; LASHUA Matthew; NAITO Terri W; LIEUALLEN Matt; WEST Kristen; SOWLE Agnes; BOGSTAD Deborah L
Subject: RE: Budget Debrief and Design Team

Diane,

Thanks for your feedback. Having three Co-Chairs may be a bit unwieldy, but I'm sure we will all be committed to work through the possible challenges that might arise. I am attaching a draft resolution that incorporates your suggestions. Since we are making changes to the Design Team that the Board appointed in August 2004, I do think that it is advisable for the Board to appoint the newly composed Design Team in order to avoid any misunderstandings.

Thanks again,
Serena

Serena Cruz Walsh

Multnomah County Commissioner, District 2
501 SE Hawthorne Blvd., Ste. 600
Portland, OR 97214
503-988-5219 (phone)
503-988-5440 (fax)
<http://www.co.multnomah.or.us/cc/ds2>

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

From: LINN Diane M
Sent: Thursday, August 03, 2006 2:05 PM
To: CRUZ Serena M
Cc: ROJO DE STEFFEY Maria; NAITO Lisa H; ROBERTS Lonnie J; FUSSELL Rob; BELL Iris D; BRUNER Thomas; Ford Carol M; DARGAN Karyne A; ted_wheeler@hotmail.com; CARROLL Mary P
Subject: RE: Budget Debrief and Design Team

Serena,

After receiving your message, I contacted Ted Wheeler and discussed a simple solution with him, and he agrees – let's have the Chair-elect join the two of us as co-chairs and work together through the end of the year. This provides for the best transition in a year when Board membership will be changing in middle of the budget process.

There is no need for a resolution, and it would be inappropriate to replace the current Chair with the Chair-elect on the Design Team before the end of the year.

I look forward to the work of the Design Team, recognizing that it operates in an advisory capacity only. I will be working with Ted Wheeler parallel to the Design Team process to begin preparation of the Chair's Executive Budget.

Thank you,

8/7/2006

Diane Linn

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

From: CRUZ Serena M

Sent: Wednesday, August 02, 2006 6:58 PM

To: LINN Diane M

Cc: ROJO DE STEFFEY Maria; NAITO Lisa H; ROBERTS Lonnie J; FUSSELL Rob; BELL Iris D; BRUNER Thomas; Ford Carol M; DARGAN Karyne A; ted_wheeler@hotmail.com; CARROLL Mary P

Subject: RE: Budget Debrief and Design Team

Diane,

Thank you for your email regarding the leadership of the FY08 Design Team process. I agree with you, since we are both leaving office in December, it would best serve the County's interest to make sure Ted Wheeler has a leadership position in the Design Team process. I also understand that in your opinion the resolution that the Board approved in 2004 (<http://www2.co.multnomah.or.us/cfm/boardclerk/viewdetail.cfm?DocID=9010>) that created the Design Team, outlined the membership of the team and appointed you and I as Co-chairs doesn't contain the specificity that you would like.

Given these considerations, I will be drafting a new resolution that re-creates the Design Team, outlines its membership and names Ted Wheeler as Chair of the Design Team, since he is the person who will be responsible for working with the Board (including my replacement) to craft the FY08 budget. You and I should provide support to Ted as the Chair of the Design team by serving as Vice Chairs or advisors through the end of our terms.

I will be submitting a resolution for the August 17th Board meeting and I look forward to working through the details with you and our colleagues.

Serena

Serena Cruz Walsh

501 SE Hawthorne Blvd. Ste. 600

Portland, OR 97214

503-988-5219

503-988-5440 fax

www.co.multnomah.or.us/cc/ds2

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

From: LINN Diane M

Sent: Wednesday, August 02, 2006 1:25 PM

To: CRUZ Serena M

Cc: ROJO DE STEFFEY Maria; NAITO Lisa H; ROBERTS Lonnie J; FUSSELL Rob; BELL Iris D; BRUNER Thomas; Ford Carol M; DARGAN Karyne A; ted_wheeler@hotmail.com

Subject: Budget Debrief and Design Team

Serena,

I came by your office to chat with you this afternoon and missed you, so am following up with this email. I wanted to get back to you about the issues of debriefing the FY '06-'07 budget process, and Design Team leadership for the FY '07-'08 budget process.

I have met with Carol Ford and Karyne Dargan about a debrief of '06-'07, and agree with many of the suggestions you made earlier. We're looking at scheduling that debrief in September, and will be in touch with your office about potential dates.

8/7/2006

Regarding Design Team leadership moving forward, I have reviewed the BCC resolution that references your designation as co-chair. The resolution clearly references two chronological mileposts: 1) potential repeal of the I-Tax, and 2) sunset of the I-Tax. Both of those mileposts have passed.

I have invited Chair-elect Ted Wheeler to co-chair the Design Team with me, and he has accepted. This is important for ensuring continuity of the budget process in FY '07-'08, as having two Design Team leaders who both leave the County on December 31 makes little sense. I invite you and other BCC members to participate in the Design Team to the extent you choose, and would welcome that involvement.

Again, thank you for your important contributions to both past and future budgets.

Thanks,

Diane

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Appointing the Design Team and directing the Team to Begin the Planning Process for Multnomah County's FY07-08 Budget

The Multnomah County Board of Commissioners Finds:

- a. In 2004 Multnomah County began implementing a priority based budgeting process to establish the County's priorities and to adopt budgets that fund programs that support the County's priorities.
- b. Resolution 04-124 established the Design Team and directed the Team to prepare budgetary information on the County's programs and priorities to make recommendations to the Board about the potential repeal of the tax and sunset of the tax.
- c. Since both of the current Design Team Co-Chairs will be leaving office on December 31, 2006, the Board needs to designate transition leadership of the Design Team that will involve the new County Chair who takes office in January 2007.

The Multnomah County Board of Commissioners Resolves:

1. The Design Team will be Co-Chaired by Chair-elect Ted Wheeler, Chair Linn and Commissioner Cruz Walsh.
2. The Design Team should include representatives from each elected officials' office, labor and other appropriate staff as determined by the Co-Chairs of the Team. The Budget Director will staff the Design Team.
3. The Design Team is directed to guide the priority based budget process and to make to make process improvement recommendations to the Board for FY07-08.
4. The Design Team will prepare and recommend to the Board the internal and external communication plan for the budget process.

ADOPTED this 17th day of August 2006.

BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Agnes Sowle, County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 06-149

Appointing Design Team Co-Chairs and Directing the Team to Begin the Planning Process for Multnomah County's Fiscal Year 2007-2008 Budget

The Multnomah County Board of Commissioners Finds:

- a. In 2004 Multnomah County began implementing a priority based budgeting process to establish the County's priorities and to adopt budgets that fund programs that support the County's priorities.
- b. Resolution 04-124 established the Design Team and directed the Team to prepare budgetary information on the County's programs and priorities to make recommendations to the Board about the potential repeal of the tax and sunset of the tax.
- c. Since both of the current Design Team Co-Chairs will be leaving office on December 31, 2006, the Board needs to designate transition leadership of the Design Team that will involve the new County Chair who takes office in January 2007.

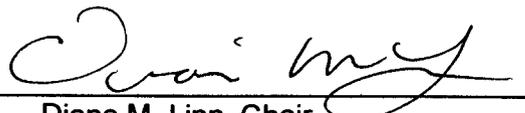
The Multnomah County Board of Commissioners Resolves:

1. The Design Team will be Co-Chaired by Chair-elect Ted Wheeler, Chair Diane Linn and Commissioner Serena Cruz Walsh.
2. The Design Team should include representatives from each elected officials' office, labor and other appropriate staff as determined by the Co-Chairs of the Team. The Budget Director will staff the Design Team.
3. The Design Team is directed to guide the priority based budget process and to make to make process improvement recommendations to the Board for Fiscal Year 2007-2008.
4. The Design Team will prepare and recommend to the Board the internal and external communication plan for the budget process.

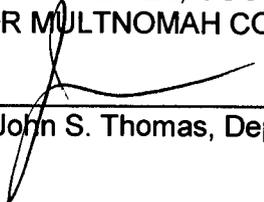
ADOPTED this 17th day of August 2006.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Diane M. Linn, Chair

REVIEWED: _____
AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
John S. Thomas, Deputy County Attorney



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-11 DATE 08-17-06
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only

Meeting Date: 08/17/06
Agenda Item #: R-11
Est. Start Time: 10:20 AM
Date Submitted: 08/09/06

BUDGET MODIFICATION: DCHS - 04

Agenda Title: Budget Modification DCHS 04 Appropriating \$57,882 County General Fund Contingency to Fund Program Offer 25072B -- Bienestar Mental Health Services Scale

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

Date Requested: <u>August 17, 2006</u>	Time Requested: <u>5 minutes</u>
Department: <u>Non-Departmental</u>	Division: <u>Commissioner District 2</u>
Contact(s): <u>Kathy Gordon</u>	
Phone: <u>503-988-6786</u> Ext. <u>86786</u>	I/O Address: <u>503/600</u>
Presenter(s): <u>Commissioner Cruz Walsh</u>	

General Information

1. What action are you requesting from the Board?

Approval to transfer \$57,882 of General Fund Contingency for one time only funding of Program Offer 25072B -- Bienestar Mental Health Services

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

Program offer 25072B sought funding to continue a drug and alcohol specialist position in the Bienestar program of DCHS. The position has existed for several years and was inadvertently not purchased this year because of confusion in the wording of the program offer title. The position serves 60 - 70 individuals each month, all Latino Spanish speakers, through group and individual activities. The workers address issues of drug and alcohol addiction, depression and domestic violence. Alternative services to meet the needs of this culturally specific population are severely lacking.

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

The General Fund Contingency is reduced by \$57,882 and the appropriation for DCHS is increased by a like amount. As this is an ongoing program funded with a one-time-only funding source, the amount of ongoing operations that will need to be reduced in FY 2008 is greater.

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

none

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

There has been a huge outpouring of support for the position from the community, including mental health providers, in the form of testimony, letters and phone calls. There is strong evidence that the position is highly effective in meeting a variety of mental health and addiction needs in the low-income Latino community.

ATTACHMENT A

Budget Modification

If the request is a Budget Modification, please answer all of the following in detail:

- **What revenue is being changed and why?**
n/a
- **What budgets are increased/decreased?**
The General Fund Contingency is reduced by 57,882 and the DCHS appropriation is increased by a like amount. The Risk Management Fund and the Data Processing fund are increased by \$10,198 and \$293 respectively.
- **What do the changes accomplish?**
This funds program offer 25072B
- **Do any personnel actions result from this budget modification? Explain.**
Yes, a 0.80 FTE Addiction Specialist is retained
- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**
n/a
- **Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?**
n/a
- **If a grant, what period does the grant cover?**
n/a
- **If a grant, when the grant expires, what are funding plans?**
n/a

Contingency Request

If the request is a Contingency Request, please answer all of the following in detail:

- **Why was the expenditure not included in the annual budget process?**
Confusing information in the title of program offer may have led commissioners to believe the offer was for a new, not an existing, program.
What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?
Discussions with deparatment managers; they do not have resources to cover the position.
- **Why are no other department/agency fund sources available?**
Funds are allocated elsewhere.
- **Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account. What are the plans for future ongoing funding?**
none

- **Has this request been made before? When? What was the outcome?**

A contingency request has not been made before, but it was an offer that the Board could have funded as part of the FY 07 budget process.

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

ATTACHMENT B

BUDGET MODIFICATION: DCHS - 04

Required Signatures

**Department/
Agency Director:**

Seren Coughlan

Date: 08/09/06

Budget Analyst:

Michael D. Gaspin

Date: 08/09/06

Department HR:

Date: _____

Countywide HR:

Date: _____

Budget Modification ID: DCHS-04

EXPENDITURES & REVENUES

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 2007

Line No.	Fund Center	Fund Code	Func. Area	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
				Internal Order	Cost Center	WBS Element						
1	19	1000	20		9500001000	60470	7,625,260	7,567,378	(57,882)			
2	20-80	1000	40			ma sc bien cgf	103,445	134,179	30,734			
3	20-80	1000	40			ma sc bien cgf	32,877	41,815	8,938			
4	20-80	1000	40			ma sc bien cgf	24,087	34,285	10,198			
5	20-80	1000	40			ma sc bien cgf	1,883	2,176	293			
6	20-80	1000	40			ma sc bien cgf	1,957	9,676	7,719			
7								0				
8	72-60	3503	20		709525	50310		(293)	(293)		Telephone	
9	72-60	3503	20		709525	60200		293	293		Telephone	
10								0				
11	72-10	3500	20		705210	50316		(10,198)	(10,198)		Insurance	
12	72-10	3500	20		705210	60330		10,198	10,198		Insurance	
13								0				
14								0				
15								0				
16								0				
17								0				
18								0				
19								0				
20								0				
21								0				
22								0				
23								0				
24								0				
25								0				
26								0				
27								0				
28								0				
29								0				
									0	0	Total - Page 1	
									0	0	GRAND TOTAL	

ANNUALIZED PERSONNEL CHANGE

Change on a full year basis even though this action affects only a part of the fiscal year (FY).

						ANNUALIZED			
Fund	Job #	HR Org	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
1000	6291		Addiction Specialist	706856	0.80	30,734	8,938	10,198	49,870
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
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									0
									0
									0
TOTAL ANNUALIZED CHANGES					0.80	30,734	8,938	10,198	49,870

CURRENT YEAR PERSONNEL DOLLAR CHANGE

Calculate costs/savings that will take place in this FY; these should explain the actual dollar amounts being changed by this Bud Mod.

						CURRENT YEAR			
Fund	Job #	HR Org	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
									0
			same as annualized						0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
TOTAL CURRENT FY CHANGES					0.00	0	0	0	0



Department of County Management
MULTNOMAH COUNTY OREGON

Budget Office

501 SE Hawthorne Blvd., Suite 531
Portland, Oregon 97214
(503) 988-3312 phone
(503) 988-5758 fax
(503) 988-5170 TDD

TO: Board of County Commissioners
FROM: Mike Jaspin, Principal Budget Analyst
DATE: August 8, 2006
SUBJECT: General Fund Contingency Request for \$57,882 to Fund Program Offer 25072B – Bienestar Mental Health Services Scale (Budget Modification DCHS-04).

A \$57,882 General Fund Contingency request is being proposed to fund Program Offer 25072B – Bienestar Mental Health Services Scale. This offer was not funded in the FY 2007 Adopted budget, although the “base” Bienestar offer was.

General Fund Contingency Policy Compliance

The Budget Office is required to inform the Board if contingency requests submitted for approval satisfy the general guidelines and policies for using the General Fund Contingency. The request is consistent with County policy in as much as the Board judges it to be a one-time-only allocation to transition the program to stable funding or to ramp down. Otherwise, the request is not consistent with County policy. In particular,

- Criteria 1 states contingency requests should be for one-time-only purposes. If this is not judged to be one-time-only transition funding, the request essentially funds an ongoing program with one-time-only emergency contingency funds.
- Criteria 2 addresses emergencies and unanticipated situations. This expenditure is not unanticipated.
- Criteria 3 addresses items identified in Board Budget Notes. The Board did not set aside contingency funds designated for this program offer.

As of August 8, 2006, the General Fund Contingency balance was \$7.6 million. Please note that this amount includes \$3.5 million for the BIT Stabilization Reserve, \$1 million for MCSO Corrections Overtime, \$1 million for Corrections Health, and approximately \$1.25 million earmarked for classification and compensation studies. This request and the SUN request utilize about 35% of the non-allocated or “normal” contingency.



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

Board Clerk Use Only

Meeting Date: 08/17/06
Agenda Item #: R-12
Est. Start Time: 10:25 AM
Date Submitted: 08/09/06

BUDGET MODIFICATION: -

Agenda Title: **RESOLUTION Allocating \$384,841 of Contingency Funds to the Office of School and Community Partnerships to Fund All 29 County SUN Service System Sites through January 31, 2007**

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

<p>Date Requested: <u>August 17, 2006</u></p> <p>Department: <u>Non-Departmental</u></p> <p>Contact(s): <u>David Martinez</u></p> <p>Phone: <u>503-988-4435</u> Ext. <u>84435</u></p> <p>Presenter(s): <u>Commissioner Maria Rojo de Steffey</u></p>	<p>Time Requested: <u>15 minutes</u></p> <p>Division: <u>Commissioner Maria Rojo de Steffey, District 1</u></p> <p>I/O Address: <u>503/600</u></p>
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General Information

1. What action are you requesting from the Board?

We are requesting that the Board approve the resolution regarding the allocation of \$384,481 in contingency funds to the Office of School and Community Partnerships in order to fund all 29 County SUN Service System Sites through January 31, 2007.

2. Please provide sufficient background information for the Board and the public to understand this issue.

Multnomah County faced a significant budget short fall of \$32 million for fiscal year 2006 – 2007. In order to provide for our communities most vulnerable populations, the Board of County Commissioners made difficult cuts in order to maintain funding for essential core services. The Board passed a budget reduction of \$1.7 million for the SUN Service System to address possible inefficiencies in program administration. OSCP Director, Lorenzo Poe, was then directed to develop a short term plan to address the budget cut and formulate recommendations for reorganization of funds and services. On August 3, 2006, the OSCP presented the Board with their proposal, which included the elimination of eight SUN Community Schools, mostly within the same geographic area

of Multnomah County. In order to ensure geographic equity, which has always been a cornerstone of the SUN Service System, the Board is proposing the acceptance of administrative cuts to the SUN Service System, but is recommending an allocation of contingency funds to continue funding for all 29 County SUN sites through January 31, 2007. Chair-elect Ted Wheeler will convene a taskforce in order to recommend changes regarding distribution and execution of SUN services in order to confirm the Board's priorities and uphold its core mission of connecting at-risk populations with quality programs.

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

The General Fund Contingency is reduced by \$384,841 and the appropriation for DSCP is increased by a like amount. In the current year, this action would utilize over 30% of the non-allocated or "normal" General Fund Contingency. The current year and ongoing impact depends on whether this is viewed as one-time-only transitional funding. If one-time-only, then there is no ongoing impact other than a reduced amount available in the General Fund Contingency. If this is viewed as ongoing, then the amount of ongoing County operations that will need to be reduced in FY 2008 is greater.

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

N/A

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

Throughout the FY 06-07 budget process, there were several public budget hearings and public comment opportunities for community members to voice their thoughts and opinions on budget priorities and possible program cuts. These hearings were held in various locations within Multnomah County between May 9, 2006 and June 22, 2006. In addition, all Board of Commissioners' offices received hundreds of emails, letters and phone calls, detailing constituents' support or opposition to a number of budget items. Chair-elect Ted Wheeler will also be forming a taskforce comprised of community stakeholders, which will report back to the Board in January on recommendations to resolve the SUN Service System funding gap.

Required Signatures

**Department/
Agency Director:**

Maria Rojas de Steffen

Date: 08/09/06

Budget Analyst:

Date:

Department HR:

Date:

Countywide HR:

Date:

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Allocating \$384,841 of Contingency Funds to the Office of School and Community Partnerships to Fund All 29 County SUN Service System Sites through January 31, 2007

The Multnomah County Board of Commissioners Finds:

- a. For the 2006/2007 Budget the County faced a \$32 million shortfall and cuts to existing programs were required to balance the budget.
- b. To support the County's mission of serving the needs of the most vulnerable populations, core services were maintained and 1.7 million was cut from the SUN Service System.
- c. Through a budget note, the Board of County Commissioners directed the OSCP Director to develop a short term plan to address the 1.7 million cut to the SUN Service System.
- d. On August 3rd the OSCP Director recommended a short term plan that included an elimination of:

• Eight SUN Community Schools	\$717,861
• DSCP Staff: 3.5 Touchstone Workers	\$245,000
• DSCP Administrative Costs	\$417,400
• SUN Agency Administrative and Program Costs	\$275,005
TOTAL	\$1,655,266

- e. Geographic equity has been a guiding principle of the SUN Service System Program.
- f. With an anticipated \$34 million cut to the 2007-2008 Budget, improved cost-efficiency and effectiveness and a commitment to the county mission is required.
- g. Chair Elect Ted Wheeler has committed to convening a taskforce of stakeholders to recommend strategies to redesign the distribution of SUN Services that meets the Board's priorities.
- h. The Board is interested in providing services that connect at-risk children with county services.

The Multnomah County Board of Commissioners Resolves:

1. The Board of County Commissioners accepts the OSCP Director's recommendations of cutting:

• DSCP Staff: 3.5 Touchstone Workers	\$245,000
• DSCP Administrative Costs	\$417,400
• SUN Agency Administrative and Program Costs	\$275,005
TOTAL	\$937,405

2. In order to ensure geographic equity, the Board allocates \$384,841 contingency funds to the OSCP to continue to fund all 29 County SUN Service System sites through January 31, 2007.
3. The Board requests Chair Elect Ted Wheeler to report back to the Board in January 2007 on the recommendations of the task force regarding how to resolve the FY2006-2007 SUN Service System funding gap.

ADOPTED this 17th day of August, 2006.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
John S. Thomas, Deputy County Attorney

BOGSTAD Deborah L

From: ROJO DE STEFFEY Maria
Sent: Monday, August 14, 2006 12:04 PM
To: LINN Diane M; CRUZ Serena M; NAITO Lisa H; ROBERTS Lonnie J
Cc: BELL Iris D; CARROLL Mary P; NAITO Terri W; WALKER Gary R; WEST Kristen;
BOGSTAD Deborah L; KINOSHITA Carol
Subject: Final Substitute SUN Resolution

Attached is a copy of the Final SUN Resolution that I will offer as a substitute on Thursday. It has included the Touchstone services to the 8 schools.



Final Substitute
SUN Resolutio...

Maria Rojo de Steffey
Multnomah County Commissioner
501 SE Hawthorne #600
Portland, Oregon 97214
503-988-5220

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO.

Allocating \$384,841 Of Contingency Funds To The Office Of School And Community Partnerships To Fund All 29 County SUN Service System Sites Through January 31, 2007.

The Multnomah County Board of Commissioners Finds:

- a. For the 2006/2007 Budget the County faced a \$32 million shortfall and cuts to existing programs were required to balance the budget.
- b. To support the County's mission of serving the needs of the most vulnerable populations, core services were maintained and 1.7 million was cut from the SUN Service System.
- c. Through a budget note, the Board of County Commissioners directed the OSCP Director to develop a short term plan to address the 1.7 million cut to the SUN Service System.

- d. On August 3rd the OSCP Director recommended a short term plan that included an elimination of:

• Eight SUN Community Schools	\$717,861
• OSCP Staff: 3.5 Touchstone Workers	\$245,000
• OSCP Administrative Costs	\$417,400
• SUN Agency Administrative and Program Costs	\$275,005
TOTAL	\$1,655,266

- e. Geographic equity has been a guiding principle of the SUN Service System Program.
- f. With an anticipated \$34 million cut to the 2007-2008 Budget, improved cost-efficiency and effectiveness and a commitment to the county mission is required.
- g. Chair Elect Ted Wheeler has committed to convening a taskforce of stakeholders to recommend strategies to redesign the distribution of SUN Services that meets the Board's priorities.
- h. The Board is interested in providing services that connect at-risk children with county services.

The Multnomah County Board of Commissioners Resolves:

1. The Board of County Commissioners accepts the OSCP Director's recommendations of cuts in the following areas to manage the \$1.7 reduction:

• OSCP Staff: 3.5 Touchstone Workers &/or Other Departmental Administrative Savings	\$245,000
• OSCP Administrative Costs	\$417,400
• 21 SUN Site Agency Administrative and Program Costs	\$275,005
• 8 SUN Site Agency Administrative and Program Costs	\$58,133
TOTAL	\$995,538

2. In order to ensure geographic equity, the Board allocates \$384,841 within the general fund contingency to the OSCP to continue to fund the 8 affected SUN Community Schools, so that all 29 County SUN Service System sites operate through January 31, 2007.
3. The Board further directs OSCP to maintain current Touchstone staffing levels for the 8 affected SUN Community Schools through January 31, 2007 using additional \$143,000 Departmental administrative savings.
4. The Board requests Chair Elect Ted Wheeler to report back to the Board in January 2007 on the recommendations of the task force regarding how to resolve the FY2006-2007 SUN Service System funding gap.

ADOPTED this 17th day of August, 2006.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____

John S. Thomas, Deputy County Attorney

SUBSTITUTE

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Allocating \$384,841 of Contingency Funds to the Office of School and Community Partnerships to Fund All 29 County SUN Service System Sites through January 31, 2007

The Multnomah County Board of Commissioners Finds:

- a. For the 2006/2007 Budget the County faced a \$32 million shortfall and cuts to existing programs were required to balance the budget.
- b. To support the County's mission of serving the needs of the most vulnerable populations, core services were maintained and 1.7 million was cut from the SUN Service System.
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SUBSTITUTE

The Multnomah County Board of Commissioners Resolves:

1. The Board of County Commissioners accepts the OSCP Director's recommendations of cuts in the following areas to manage the \$1.7 reduction:

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4. The Board requests Chair Elect Ted Wheeler to report back to the Board in January 2007 on the recommendations of the task force regarding how to resolve the FY2006-2007 SUN Service System funding gap.

ADOPTED this 17th day of August, 2006.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
John S. Thomas, Deputy County Attorney

#1
**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 08/17/06

SUBJECT: SUN School

AGENDA NUMBER OR TOPIC: R-12

FOR: X AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Krista Larson

ADDRESS: 1808 SE Belmont

CITY/STATE/ZIP: Portland OR 97221

PHONE: DAYS: 503-232-0007 EVES: 503-248-9314

EMAIL: KristaL@metfamily.org FAX: 503

SPECIFIC ISSUE: support of resolution that supports
contingency funding for SUN

WRITTEN TESTIMONY:

IF YOU WISH TO ADDRESS THE BOARD:

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

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

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

2

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

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

MEETING DATE: 8/17/06

SUBJECT: SUN Schools

AGENDA NUMBER OR TOPIC: R12

FOR: _____ AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Jennifer Green

ADDRESS: 10531 SW Capitol Hwy

CITY/STATE/ZIP: Portland OR 97219

PHONE: DAYS: can be reached via 503-544-6433 EVES: _____

EMAIL: _____ FAX: _____

SPECIFIC ISSUE: Support for Markham SUN

WRITTEN TESTIMONY:

IF YOU WISH TO ADDRESS THE BOARD:

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

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

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

#3

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

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

MEETING DATE: 8/17/06

SUBJECT: SUN Schools

AGENDA NUMBER OR TOPIC: R12

FOR: ✓ AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Jennifer Satalino Stone

ADDRESS: 10531 SW Capitol Hwy

CITY/STATE/ZIP: Portland OR 97219

PHONE: _____ DAYS: can be reached via 503-544-6433 EVES: _____

EMAIL: _____ FAX: _____

SPECIFIC ISSUE: Support for Markham SUN

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

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

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

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

#4

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

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

MEETING DATE: 9-17-06

SUBJECT: Thank you

AGENDA NUMBER OR TOPIC: 50th school R12

FOR: X AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Richard Nitti

ADDRESS: 1405 SW Crest St

CITY/STATE/ZIP: Portland OR 97219

PHONE: _____ DAYS: 503 246-1663 EVES: _____

EMAIL: r.nitti@u6web.com FAX: _____

SPECIFIC ISSUE: _____

WRITTEN TESTIMONY: Attachment

IF YOU WISH TO ADDRESS THE BOARD:

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

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

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



Neighborhood House, Inc.



503-246-1663 TEL, 503-245-2819 FAX
7780 S.W. Capitol Hwy., Portland, Oregon 97219

Advisors

Pamela Jones
David Sarasohn
Karla Wenzel
Duncan Wyse

Board of Directors

President
Ted Coonfield
Management
Consultant
Vice President
Pam Field
National Psoriasis
Foundation
Treasurer
Dave Gutzler
OEEO
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AcryMed
Mary Ann Frantz
Miller Nash LLP
Doug Gaslin
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Paul Hill
Portland Community
College
Bob Johnson
OHSU
Joel Kaplan
Foster Pepper Tooze LLP
Sal Khan
Salauddin Khan
Architects
Miles Price
Carol Reed
Portland General
Electric
Laurie Ross
Portland Public Schools
Jim Scherzinger
Public Finance
Consultant
Mary Wawrukiewicz

Directors Emeriti

Pat Collier
Don DeFrancq
Karla Green
Phil Hamilton
Alice Jacobson
Marie Napolitano

Executive Director
Richard J. Nitti

August 17, 2006

To: Chair Diane Linn
Commissioners Maria Rojo de Steffey
Commissioner Lisa Naito
Commissioner Serena Cruz-Walsh
Commissioner Lonnie Roberts

From: Richard Nitti, Executive Director, Neighborhood House, Inc.

Re: Resolution R 12 - Allocating \$384,841 of Contingency Funds to the Office of School and Community Partnerships to Fund All 29 County SUN Service System Sites through January 31, 2007.

I would like to offer to all of you my appreciation for reconsidering the funding level for the SUN School program. While Resolution 12 does not restore full funding to the SUN Program, as many of us would have liked. It does apply the fairness of geographic equity, a principle that I feel is important to the integrity of the SUN system. It also provides time for Chair-elect Wheeler and the task force of stakeholders to do a complete analysis and recommend strategies. Achieving this

In particular, I want to express a special thanks to Commissioner Maria Rojo de Steffey. On August 2nd the Oregonian directed a challenge to her. I know the Commissioner to be a person who does not shy away from a battle. I know her to be a person that applies thoughtful and careful analysis to her decisions. Commissioner Rojo stood up to the challenge, applied careful analysis and came up with a creative solution to a very difficult problem in a time of an extremely tight budget. That solution is being presented today as Resolution 12. We at Neighborhood House, children, parents, staff and board salute her willingness to work for a fair and equitable solution. Commissioner Maria Rojo de Steffey stood up in defense of the children and families in her district by fighting for geographic equity. We stand with Commissioner Naito when she stated, "I applaud Commissioner Rojo's leadership on SUN Schools."

Thank you all.



United Way

Neighborhood House, Inc.
is a 501(c)(3) non-profit,
Federal Tax ID 93-0386875

www.nhweb.org

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 06-150

Allocating \$384,841 of Contingency Funds to the Office of School and Community Partnerships to Fund All 29 County SUN Service System Sites through January 31, 2007

The Multnomah County Board of Commissioners Finds:

- a. For the 2006/2007 Budget the County faced a \$32 million shortfall and cuts to existing programs were required to balance the budget.
- b. To support the County's mission of serving the needs of the most vulnerable populations, core services were maintained and 1.7 million was cut from the SUN Service System.
- c. Through a budget note, the Board of County Commissioners directed the OSCP Director to develop a short term plan to address the 1.7 million cut to the SUN Service System.
- d. On August 3rd the OSCP Director recommended a short term plan that included an elimination of:

• Eight SUN Community Schools	\$717,861
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• OSCP Administrative Costs	\$417,400
• SUN Agency Administrative and Program Costs	\$275,005
TOTAL	\$1,655,266

- e. Geographic equity has been a guiding principle of the SUN Service System Program.
- f. With an anticipated \$34 million cut to the 2007-2008 Budget, improved cost-efficiency and effectiveness and a commitment to the county mission is required.
- g. Chair Elect Ted Wheeler has committed to convening a taskforce of stakeholders to recommend strategies to redesign the distribution of SUN Services that meets the Board's priorities.
- h. The Board is interested in providing services that connect at-risk children with county services.

The Multnomah County Board of Commissioners Resolves:

1. The Board of County Commissioners accepts the OSCP Director's recommendations of cuts in the following areas to manage the \$1.7 reduction:

• OSCP Staff: 3.5 Touchstone Workers &/or Other Departmental Administrative Savings	\$245,000
• OSCP Administrative Costs	\$417,400
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• 8 SUN Site Agency Administrative and Program Costs	\$58,133
TOTAL	\$995,538

2. In order to ensure geographic equity, the Board allocates \$384,841 within the general fund contingency to the OSCP to continue to fund the 8 affected SUN Community Schools, so that all 29 County SUN Service System sites operate through January 31, 2007.
3. The Board further directs OSCP to maintain current Touchstone staffing levels for the 8 affected SUN Community Schools through January 31, 2007 using additional \$143,000 Departmental administrative savings.
4. The Board requests Chair Elect Ted Wheeler to report back to the Board in January 2007 on the recommendations of the task force regarding how to resolve the FY2006-2007 SUN Service System funding gap.

ADOPTED this 17th day of August, 2006.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By

John S. Thomas, Deputy County Attorney



**MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST**

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-13 DATE 08.17.06
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only

Meeting Date: 08/17/06
Agenda Item #: R-13
Est. Start Time: 10:30 AM
Date Submitted: 08/09/06

BUDGET MODIFICATION: OSCP - 01

Agenda Title: Budget Modification OSCP-01 Appropriating \$384,841 County General Fund Contingency to Fund SUN Schools

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

Date Requested:	<u>August 17, 2007</u>	Time Requested:	<u>5 minutes</u>
Department:	<u>Non-Departmental</u>	Division:	<u>Commissioner District 1</u>
Contact(s):	<u>David Martinez</u>		
Phone:	<u>503 988-8435</u>	Ext.	<u>88435</u>
		I/O Address:	<u>503/600</u>
Presenter(s):	<u>Commissioner Rojo de Steffey</u>		

General Information

1. What action are you requesting from the Board?

We are requesting that the Board approve the allocation of \$384,481 in contingency funds to the Office of School and Community Partnerships in order to fund all 29 County SUN Service System Sites through January 31, 2007.

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

Multnomah County faced a significant budget short fall of \$32 million for fiscal year 2006 – 2007. In order to provide for our communities most vulnerable populations, the Board of County Commissioners made difficult cuts in order to maintain funding for essential core services. The Board passed a budget reduction of \$1.7 million for the SUN Service System to address possible inefficiencies in program administration. OSCP Director, Lorenzo Poe, was then directed to develop a short term plan to address the budget cut and formulate recommendations for reorganization of funds and services. On August 3, 2006, the OSCP presented the Board with their proposal, which included the elimination of eight SUN Community Schools, mostly within the same geographic area of Multnomah County. In order to ensure geographic equity, which has always been a cornerstone

of the SUN Service System, the Board is proposing the acceptance of administrative cuts to the SUN Service System, but is recommending an allocation of contingency funds to continue funding for all 29 County SUN sites through January 31, 2007. Chair-elect Ted Wheeler will convene a taskforce in order to recommend changes regarding distribution and execution of SUN services in order to confirm the Board's priorities and uphold its core mission of connecting at-risk populations with quality programs.

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

The General Fund Contingency is reduced by \$384,841 and the appropriation for DSCP is increased by a like amount. In the current year, this action would utilize over 30% of the non-allocated or "normal" General Fund Contingency. The current year and ongoing impact depends on whether this is viewed as one-time-only transitional funding. If one-time-only, then there is no ongoing impact other than a reduced amount available in the General Fund Contingency. If this is viewed as ongoing, then the amount of ongoing County operations that will need to be reduced in FY 2008 is greater.

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

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

ATTACHMENT A

Budget Modification

If the request is a Budget Modification, please answer all of the following in detail:

- **What revenue is being changed and why?**
n/a
- **What budgets are increased/decreased?**
The General Fund Contingency is reduced by \$384,841 and the DSCP appropriation is increased by a like amount
- **What do the changes accomplish?**
Provides funding for 8 SUN School sites that DSCP had planned to close. This provides funding for the 29 County funded sites through January 31, 2007.
- **Do any personnel actions result from this budget modification? Explain.**
n/a
- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**
n/a
- **Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?**
n/a
- **If a grant, what period does the grant cover?**
n/a
- **If a grant, when the grant expires, what are funding plans?**
n/a

Contingency Request

If the request is a Contingency Request, please answer all of the following in detail:

- **Why was the expenditure not included in the annual budget process?**
The Board did not fully fund the SUN School system and included several budget notes regarding SUN Schools.
- **What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?**
Per the DSCP August 3, 2006 presentation to the Board, administrative and other system reductions will occur, which the Board directed and already reduced funding in the Adopted budget.
- **Why are no other department/agency fund sources available?**
Other funds are used to support other schools sites in the system. Shifting funds, where permissible, would not cause sites not to be closed.
- **Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account. What are the plans for future ongoing funding?**

This expenditure produces no new revenue or cost savings that aren't already planned.

- **Has this request been made before? When? What was the outcome?**

A contingency request has not been made before, but funding for these activities was requested during the FY 07 budget adoption process.

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

ATTACHMENT B

BUDGET MODIFICATION: OSCP - 01

Required Signatures

**Department/
Agency Director:**

Maria Rojas de Steffey

Date: 08/09/06

Budget Analyst:

Michael D. Gassir

Date: 08/08/06

Department HR:

Date: _____

Countywide HR:

Date: _____

Budget Modification ID: OSCP 01

EXPENDITURES & REVENUES

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 2007

Line No.	Fund Center	Fund Code	Func. Area	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
				Internal Order	Cost Center	WBS Element						
1	19	1000	20		9500001000		60470	7,625,260	7,240,419	(384,841)		
2	21-78	1000	40			SCPSP.SUN CGF	60160	921,064	1,305,905	384,841		
3									0			
4									0			
5									0			
6									0			
7									0			
8									0			
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28									0			
29									0			
										0	0	Total - Page 1
										0	0	GRAND TOTAL



Department of County Management
MULTNOMAH COUNTY OREGON

Budget Office

501 SE Hawthorne Blvd., Suite 531
Portland, Oregon 97214
(503) 988-3312 phone
(503) 988-5758 fax
(503) 988-5170 TDD

TO: Board of County Commissioners
FROM: Mike Jaspin, Principal Budget Analyst
DATE: August 8, 2006
SUBJECT: General Fund Contingency Request for \$384,841 to Fund SUN Schools through January 31, 2007 (Budget Modification OSCP-01).

A \$384,841 General Fund Contingency request is being proposed to fund the eight SUN School sites slated to be closed under the Department of School and Community Partnerships Proposed FY 06/07 SUN Service System Reduction plan that was presented to the Board on August 3, 2006. This contingency request would allow the 29 County supported sites to be funded through January 31, 2007. Funding beyond this date has not been identified.

General Fund Contingency Policy Compliance

The Budget Office is required to inform the Board if contingency requests submitted for approval satisfy the general guidelines and policies for using the General Fund Contingency. The request is consistent with County policy in as much as the Board judges it to be a one-time-only allocation to transition the SUN program to sustainable funding. Otherwise, it would be inconsistent. In particular,

- Criteria 1 states contingency requests should be for one-time-only purposes. If this is not judged to be one-time-only transition funding, the request essentially funds ongoing programs with one-time-only emergency contingency funds.
- Criteria 2 Addresses emergencies and unanticipated situations. This expenditure is not unanticipated.
- Criteria 3 addresses items identified in Board Budget Notes. While the Board did adopt a budget note regarding SUN Schools, it did not set aside funds designated for SUN Schools.

As of August 8, 2006, the General Fund Contingency balance was \$7.6 million. Please note that this amount includes \$3.5 million for the BIT Stabilization Reserve, \$1 million for MCSO Corrections Overtime, \$1 million for Corrections Health, and approximately \$1.25 million earmarked for classification and compensation studies. This request and the Bienestar request utilize about 35% of the non-allocated or "normal" contingency.



**MULTNOMAH COUNTY
AGENDA PLACEMENT REQUEST**

Board Clerk Use Only

Meeting Date: 08/17/06
 Agenda Item #: B-1
 Est. Start Time: 10:35 AM
 Date Submitted: 08/09/06

BUDGET MODIFICATION: -

Agenda Title: Briefing to Provide Up-to-Date Information Regarding the Status of the Federal Approval Process for the Proposed Bridge of the Gods Resort and Casino

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

Date Requested: August 17, 2006 **Time Requested:** 75 minutes
Department: Non-Departmental **Division:** Commissioner Naito & Commissioner Roberts
Contact(s): Matthew Lieuallen or Kristen West
Phone: 503-988-5217 **Ext.** 85217 **I/O Address:** 503/6
Presenter(s): Len Bergstein and Members of the Confederated Tribes of the Warm Springs

General Information

1. What action are you requesting from the Board?

No action necessary. The purpose of this presentation is to provide up-to-date information, review the next steps in the federal approval process and to respond to any questions the Board may have regarding the proposed Bridge of the Gods resort and casino.

2. Please provide sufficient background information for the Board and the public to understand this issue.

In April 2005, the Warm Springs requested the Secretary of the Interior to conduct a "two part determination" of whether the establishment of a gaming facility at Cascade Locks would be in the best interest of the Tribe and its members and not detrimental to the surrounding community. In a related request, the Warm Springs asked the Secretary to place a 25 acre parcel of the industrial park into "trust" for the gaming facility.

The first step in the process was for the federal government to seek consultation with neighboring jurisdictions – those closest to the site of the project. This was a unique opportunity to comment on

the record and shape of the project, at an early stage. While many jurisdictions on both sides of the Columbia River submitted comments in favor of the project, Multnomah County chose not to formally commit.

Next, a series of six scoping sessions (including one at Benson High) were held to invite and encourage public comment on the "scope" of the issues to be studied in an Environmental Impact Study (EIS), in compliance with the National Environmental Policy Act. About 1800 comments were submitted. Again, no formal comments from Multnomah County were submitted.

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

There is no fiscal impact at this time.

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

None

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

This project has heard from numerous government agencies, elected officials, and other groups in the area.

Required Signatures

**Department/
Agency Director:**

Lonnie Roberts

Date: 08/09/2006

Budget Analyst:

Date:

Department HR:

Date:

Countywide HR:

Date:



Briefing for

Multnomah County Commissioners

August 17, 2006

Multnomah County Commission
Briefing on Bridge of the Gods Casino

August 17, 2006

Bridge of the Gods Casino Presentation

1. Introduction of Team – Howie Arnett
2. Opening Remarks – Chief Delvis Heath
3. Chronology of Public Involvement – Howie Arnett
4. Two Part Determination
 - Tribal needs
 - Community Benefits – Robert Willoughby, City Manager,
City of Cascade Locks
 - Environmental Impacts/protectations – Michael Mason
5. Bridge of the Gods Design elements – Jeff Ford, CEO Warm Springs
Gaming Enterprise
6. Next Steps
 - DEIS Studies – Howie Arnett
 - Congress – Len Bergstein



Michael D. Mason, Esq.

Consulting and Legal Services

1817 NE 49th Avenue
Portland, Oregon 97213

(503) 280-6361 Fax: (503) 284-6359

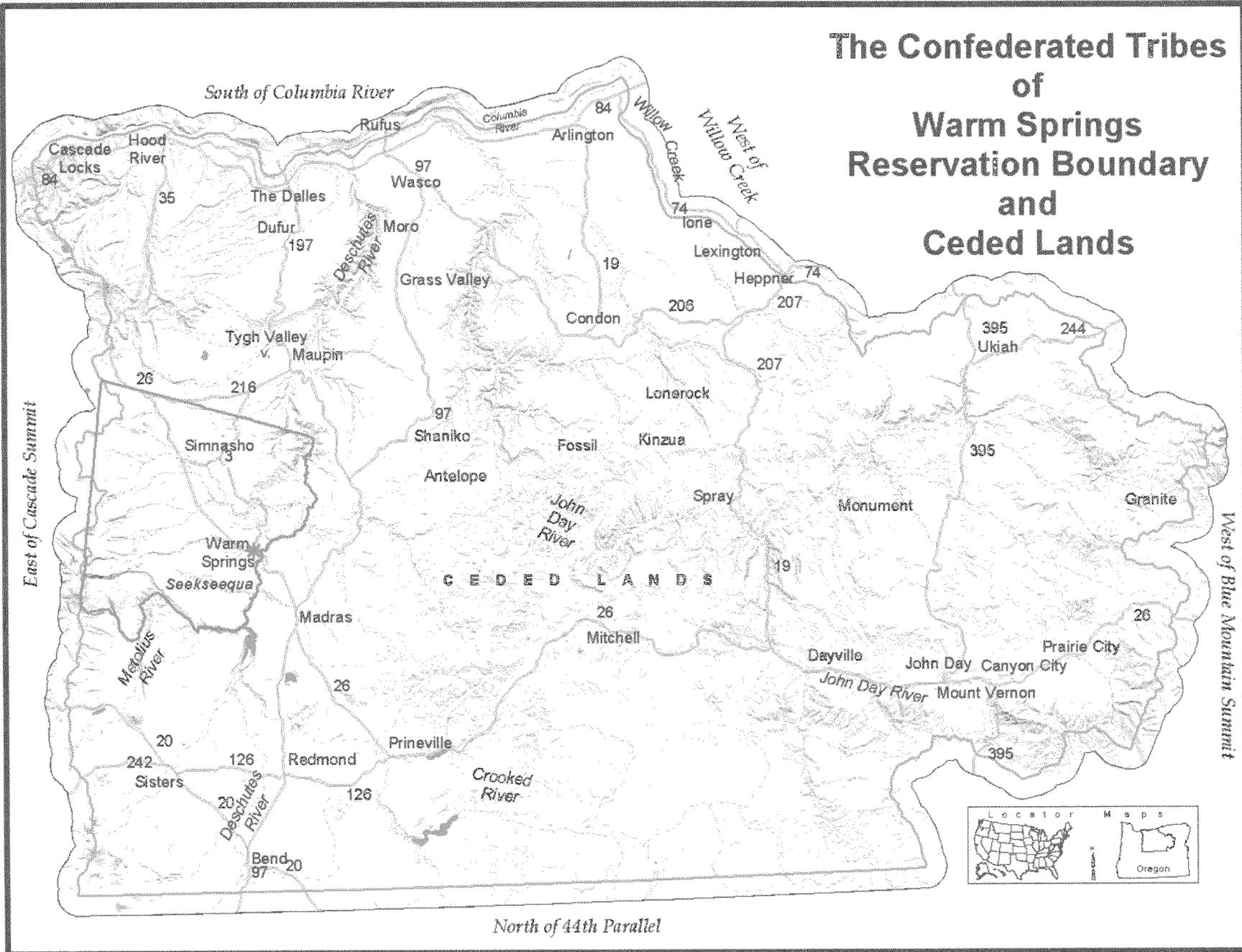
mdmasonesq@juno.com

BRIDGE OF THE GODS COLUMBIA RIVER RESORT AND CASINO

2005 Compact through 2007 Secretary of the Interior Decision

April, 2005	State/Tribal Gaming Compact signed
	MOU with Hood River County and City of Cascade Locks signed
	Tribe submits application to Secretary of the Interior to take Locks site into trust
June/July, 2005	Interior Dept. consults with state and local governments with jurisdiction over Cascade Locks site
	Interior Dept. consults with state, tribes and local governments (including Multnomah County) in both Oregon and Washington within vicinity of Cascade Locks site
August, 2005	Interior Dept. publishes "Notice of Intent" to prepare Environmental Impact Statement (EIS) on Tribe's fee-to-trust application
Sept/Oct, 2005	Public "scoping" of issues for EIS (1808 public comments given during six public meetings and via letter, email, website, etc.)
December, 2005	Additional public "scoping" period
October, 2006	Expected release of Draft EIS for public comment
Mar/Apr, 2007	Expected release of Final EIS and Record of Decision
September, 2007	Expected final decision by Secretary of Interior whether to take Cascade Locks site into trust

The Confederated Tribes of Warm Springs Reservation Boundary and Ceded Lands



ANCESTRAL LANDS

WARM SPRINGS "EXCLUSIVE USE AND OCCUPANCY" OF CASCADE LOCKS AREA SINCE TIME IMMEMORIAL CONCLUSIVELY ESTABLISHED BY 1967 INDIAN CLAIMS COMMISSION JUDGMENT

The land surrounding the present-day City of Cascade Locks is part of the aboriginal homeland of the Wasco people who were signatories to the Treaty with the Tribes of Middle Oregon of June 25, 1855, and whose descendants are now members of the Confederated Tribes of the Warm Springs Reservation of Oregon. In addition to the language of the June 25, 1855 Treaty, which describes this area as part of the Tribes' ancestral territory ceded to the United States, this historical fact was legally proven before the United States Indian Claims Commission in 1967. The Indian Claims Commission's 1967 ruling means that no other modern day tribe or group of Indian people can make or prove a claim that Cascade Locks is their aboriginal or ancestral area.

In its case before the Indian Claims Commission, the Confederated Tribes of Warm Springs legally established its claim to aboriginal occupancy and exclusive use (also known as "aboriginal title") of the Cascade Locks land as successor in interest to the tribes and bands that were signatories to the 1855 Treaty. The Indian Claims Commission was a quasi-judicial body established by Congress in 1946 to hear and decide claims for compensation brought by Indian tribes against the United States for loss of their ancestral lands. Proving a claim before the Commission was not an easy matter: the Commission imposed very stringent requirements on tribes seeking to establish a right to compensation for the loss of their aboriginal lands.

With regard to the Warm Springs claim of aboriginal title to the Cascade Locks area, the Tribes had to prove before the Commission that the Wasco people who were signatories to the June 25, 1855 Treaty lived on the land, fished and gathered foods there, and had permanent village sites from time immemorial. The Tribes also had to prove that the Wasco treaty-signers use of the land was exclusive—that is, no other Indian peoples lived

on those lands under a claim of ownership. As the Commission stated in its ruling in the Warm Springs case:

“The fact that the claimed land was included within the description of the land ceded to the United States in the treaty of 1855 is not by itself sufficient proof that the [Tribes] had ‘Indian title’ to the land. There must be a showing of actual, exclusive and continuous use and occupancy ‘for a long time’ prior to the loss of the land.”

The Commission did not allow the Tribes to rely on treaty language, testimony of tribal members, or oral histories from tribal elders as evidence to prove its claim. Instead, the Tribes had to hire anthropologists and other “experts” who uncovered written evidence from early white explorers and missionaries that proved that Wasco treaty-signers had exclusive ownership of the area. Assembling the required evidence was difficult and time consuming. The case went on for nearly twenty years at great cost to the Confederated Tribes of Warm Springs.

Finally, based on the extensive record of evidence presented by the Tribes, the Commission determined in 1967 that the Tribes had legally established aboriginal title to the lands surrounding Cascade Locks. The Commission found that the Wasco treaty-signing people had lived on those lands for a long period of time before the 1855 Treaty was signed, and that they owned those lands exclusively. The record before the Commission included evidence of two permanent Wasco villages within what are now the city limits of the City of Cascade Locks, called “Cathlathlala” and “Cathleyacheyachs” in the journals of early explorers. The record also included evidence of a permanent Wasco village called “Cathlakahikit” located two miles west of Cascade Locks on the banks of Eagle Creek.

On the subject of exclusive use, the Commission determined that while other Indian peoples came to the Cascade Locks area to visit, trade, or use the Wasco fishing sites, they did so only with the *permission* of the Wasco. Thus, those other Indian tribes did not have a claim to aboriginal ownership. In its ruling, the Commission stated:

“The Cascade Wasco went as far as Fort Vancouver for Wappato root and across the Columbia River to the valley of White Salmon for camus root. The Dog or Hood River Wasco also went north across the Columbia on occasion. It does not appear, however, that any Indians from west of the Cascades or from north of the Columbia came within the claimed area for any purpose other than to enjoy permissive use of the fisheries and to participate in the trade, gambling, and social activities conducted within the several villages during the trading and fishing seasons.”

The findings of the Indian Claims Commission confirmed what the people of the Confederated Tribes of Warm Springs already knew—the lands along the Columbia from west of Cascade Locks east to the Dalles were the aboriginal lands of the Wasco people. This finding is binding legal precedent supporting the Tribes application to take land into trust in the Cascade Locks Industrial Park for a casino.

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A Brief History of the Warm Springs People

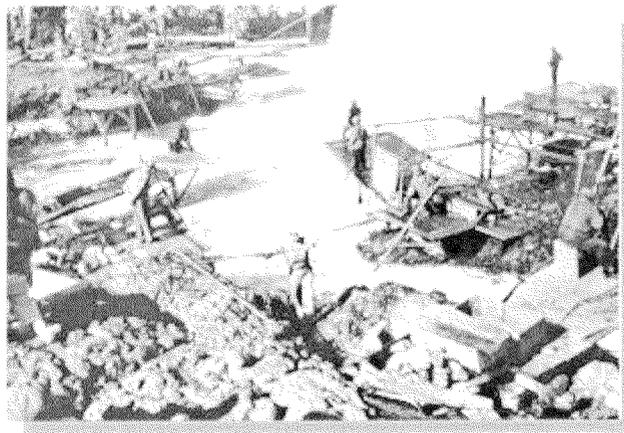
Long before Europeans set foot on the North American continent, the three tribes of the Warm Springs Reservation - - the Wasco, the Walla Walla (later called the Warm Springs), and the Paiute - - had developed societies beside the Columbia River, the Cascade Mountains, and other parts of Oregon. Although they have much in common today, each tribe has its own unique history and heritage.

The Wascoes

The Wasco bands on the Columbia River were the eastern-most group of Chinookan-speaking Indians. Although they were principally fishermen, their frequent contact with other Indians throughout the region provided for abundant trade. Roots and beads were available from other Chinookan bands such as the Clackamas. Game, clothing and horses came from trade with Sahaptin bands such as the neighboring Warm Springs and the more distant Nez Perce. In exchange for these goods, the Wasco traded root bread, salmon meal, and bear grass.

The Warm Springs

The Warm Springs bands who lived along the Columbia's tributaries spoke Sahaptin. Unlike the Wascoes, the Warm Springs bands moved between winter and summer villages, and depended more on game, roots and berries. However, salmon was also an important staple for the Warm Springs bands and, like the Wascoes, they built elaborate scaffolding over waterfalls which allowed them to harvest fish with long-handled dip nets. Contact between the Warm Springs bands and the Wascoes was frequent, and, although they spoke different languages and observed different customs, they could converse and traded heavily.



Dip net fishing at Celilo Falls

The Paiutes

The Paiutes lived in southeastern Oregon and spoke a Shoshonean dialect. The lifestyle of the Paiutes was considerably different from that of the Wasco and Warm Springs bands. Their high-plains existence required that they migrate further and more frequently for game, and fish was not an important part of their diet. The Paiute language was foreign to the Wasco and Warm Springs bands, and commerce among them was infrequent. In early times, contact between them often resulted in skirmishes. Although Paiute territories historically included a large area from southeastern Oregon into Nevada, Idaho, and western Utah, the Paiute bands which eventually settled at Warm Springs lived in the area of Lake, Harney, and Malheur counties in Oregon.

The Arrival of Settlers

During the 1800's, the old way of life for the Indian bands in Oregon was upset by the new waves of immigrants from the east. In 1843, 1,000 immigrants passed through The Dalles. In 1847 there were 4,000. By 1852, up to 12,000 settlers were crossing Wasco and Warm Springs territories each year.

In 1855, Joel Palmer, superintendent for the Oregon Territory, received his orders to clear the Indians from their lands. He did so by negotiating a series of Indian treaties including the one establishing the Warm Springs Reservation. Under the treaty, the Warm Springs and Wasco tribes relinquished approximately ten million acres of land, but reserved the Warm Springs Reservation for their exclusive use. The tribes also kept their rights to harvest fish, game and other foods off the reservation in their usual and accustomed places.

Early Reservation Years

Traditional ways of life changed greatly after the Wasco and Warm Springs tribes relocated onto the Warm Springs Reservation. Salmon wasn't as plentiful as it had been on the Columbia, and the harsher climate and poor soil conditions made farming more difficult. They quickly found that their former economic system was no longer workable. In addition, federal policies to assimilate the Indian people forced them to abandon many of their customary ways in favor of modern schools, sawmills, and other infrastructure foreign to the tribes.

Paiute Settlement at Warm Springs

The settlement of the Paiutes on the Warm Springs Reservation began in 1879 when 38 Paiutes moved to Warm Springs from the Yakama Reservation. These 38 people, along with many other Paiutes, had been forced to move to the Yakama Reservation and Fort Vancouver after joining the Bannocks in a war against the U.S. Army. Eventually more of them came, and they became a permanent part of the Warm Springs Reservation.

Tribal Government and Indian Self-Determination

In 1934, Congress passed the Indian Reorganization Act (Wheeler-Howard Act) to revitalize Indian communities and to bolster Indian tribes as governments. The IRA recognized the necessity for tribal governments to manage their own affairs, and offered Federal assistance to tribes organizing under its provisions. The Warm Springs, Wasco, and Paiute tribes studied the IRA carefully before deciding to accept its terms.

In 1937, the three tribes organized as the Confederated Tribes of the Warm Springs Reservation of Oregon by adopting a constitution and by-laws for tribal government.

In 1938, they formally accepted a corporate charter from the United States for their business endeavors. These organizational documents declared a new period of tribal self-government on the Warm Springs Reservation.



Warm Springs Leaders, 1938

(Left to right) George Meachem, Isaac McKinley, Charlie McKinley, Matt Quinn, Jackson Culps

Milestones on the Road to Self-Sufficiency

Once the Confederated Tribes had established themselves as a self-governing entity, they began to actively pursue self-sufficiency. Some of the notable contributions to the financial independence of the Confederated Tribes have been:

- 1942 - Warm Springs Lumber Company Established
- 1957 - \$4,000,000 settlement for the destruction of Celilo Falls
- 1959 - Pelton Dam completed

- 1964 - Round Butte Dam completed
- 1964 - Opening of Kah-Nee-Ta Village
- 1966 - Warm Springs Forest Products established
- 1972 - McQuinn Strip returned to tribes
- 1972 - Opening of Kah-Nee-Ta Lodge
- 1982 - Warm Springs Power Enterprise established
- 1986 - KWSI and KWSO begin broadcasting
- 1991 - KWSI moves to Bend to become K-TWINS
- 1993 - Opening of the Museum at Warm Springs
- 1993 - Warm Springs Composite Products established
- 1995 - Warm Springs Plaza opens
- 1996 - K-TWINS sold
- 1996 - Indian Head Casino opens
- 1996 - Warm Springs Credit Enterprise established
- 2002- Tribal Members vote to move Casino to the Columbia River Gorge
- 2005- Governor Kulongoski announces Compact for Tribal Casino at Cascade Locks

Shahala: A Tribal Village for 10,000 years

The Cascades, the smaller of the two 'falls' on the Columbia River, the other being Celilo, has been the site of a major Tribal Village for at least 10,000 years. Known as Shahala, the fishing village grew as a trade center for Indians bringing roots and venison from the west to trade for Salmon and horses from the east.

In a very real sense, Tribal presence has never left the river at what is now know as Cascade Locks, named for the federally sponsored navigation locks completed in 1996. Today tribal members and other Indians of the Columbia River tribes utilize their Treaty fishing rights both at in-lieu fishing sites and in boats on Nch'i-Wana, the 'big river'. During the fall and spring Salmon runs, tribally caught fish can be purchased from Tribal members at Cascade Locks, as has been the case for thousands of years.

An archeological site on Tribal land in cascade Locks has been carbon dated back 4,000 years verifying a long history of Tribal members, the sacred ancestors of the Warm Springs & Wasco Tribes coming to the river for trade and the source of their sustenance.

CASCADE LOCKS RESORT & CASINO ENVIRONMENTAL IMPACT STATEMENT

http://www.gorgecasinoeis.com/project_description.html

Project Description

Proposed Action



[\[View larger image\]](#)

The proposed Cascade Locks Resort and Casino would be within the City of Cascade Locks, in the Columbia River Gorge, 40 miles east of the City of Portland. To develop the resort and casino, the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribe) seeks a fee-to-trust transfer (see [FAQs](#)) of approximately 25 acres in trust for the development of gaming and related entertainment facilities (including dining venues, hotel, spa, and cultural experiences). Pursuant to Section 20 of the Indian Gaming Regulatory Act (IGRA), the Secretary of the Interior must also determine whether establishment of a gaming facility for the Tribe on these lands (1) will be in the best interest of the Tribe and its members and (2) will not be detrimental to the surrounding communities.

The 25 acres proposed for trust acquisition are part of a 60-acre tract of industrial lands located at the eastern edge of the city. In addition to the fee-to-trust parcel, the Tribe intends to lease adjacent lands (approximately 35 acres) from the Port of Cascade Locks for ancillary facilities associated with the resort and casino (including parking, site drainage, and utilities connections).

The project area is currently zoned as light and heavy industrial property, and located within an existing industrial business park owned by the Port of Cascade Locks with direct access to the Columbia River. It is adjacent to an active Union Pacific Railroad line that flanks I-84 to the south, Government Island Cove to the east, and undeveloped leased land to the north. To the west are the business park's entry road and wood product companies. Access to the site from I-84 is currently available from secondary roads that join I-84 at the Herman Creek Interchange and Cascade Locks West Interchange. The project area is within an Urban Area as designated by the Columbia River Gorge National Scenic Area Act and thus exempt from the provisions of the Scenic Area Management Plan. The project area is also within an area determined by the Indian Claims Commission in *Confederated Tribes of the Warm Springs Reservation of Oregon vs United States* (Docket No. 198) to be aboriginal lands of the Warm Springs Tribes.

Although the eventual size and scope of the facilities may be modified based on information obtained through the EIS process, the Tribe's current proposal is for a \$389 million, 603,000 square foot riverfront destination resort and casino. Initial plans include a 90,000-square-foot gaming casino, 241-room hotel, 26,000 square foot meeting and convention facility, spa and fitness center, retail shops, cultural and interpretive center, daycare facility, and variety of dining option. Parking would be provided for 3,700 vehicles, including a multi-tiered parking garage and two surface lots.

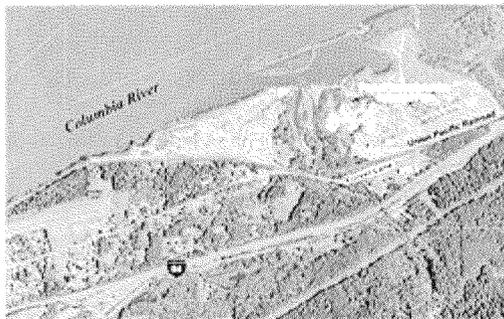
The proposed resort and casino building design is intended to be reminiscent of an ancient river village, with low buildings collected on a westward-flowing river path. Natural materials would be used for exterior surfaces to be compatible with the surrounding environment. Sustainable design elements would be incorporated into the resort building, parking structures, and other site features. Opportunities for development of trails, pathways, and boardwalks are being considered to provide access to areas that demonstrate Tribal values, culture, and the geologic history of the region.

The proposal also includes transportation system improvements necessary to provide access to the proposed development. Among the improvement alternatives to be studied is a new Interstate 84 (I-84) interchange at the existing Forest Lane overpass of I-84. As part of its resort and casino development, the Tribe is proposing that a new interchange be designed in a diamond concept with direct interchange connectivity to the City of Cascade Locks via Forest Lane. This proposed interchange would include an over-crossing of the Union Pacific Railroad tracks to enter the Port of Cascade Locks Industrial Park and the resort and casino properties. As noted above, the Tribe would be responsible for the cost of these transportation system improvements.

As part of the review and approval process for the fee-to-trust action and Section 20 determination, the Department of Interior (DOI), through its Bureau of Indian Affairs (BIA), requires compliance with the National Environmental Policy Act (NEPA). Because transportation system improvements to I-84 would be required, the Tribe's proposal also requires review and approval by the Federal Highway Administration (FHWA) and the Oregon Department of Transportation (ODOT) for access to the facility, which also requires compliance with NEPA. For purposes of compliance with NEPA, the BIA is the lead agency for the Project and FHWA, ODOT, the City of Cascade Locks, Port of Cascade Locks, and Hood River County are cooperating agencies. BIA has determined that an environmental impact statement (EIS) is needed to assess the potential effects of the Tribe's proposal and alternatives to that proposal. A Draft EIS is expected to be available for public review in October/November 2006. A Final EIS is scheduled for completion in February/March 2007. A grand opening is scheduled for early 2008.

The EIS will include an evaluation of alternatives for meeting the proposed facilities' access needs from I-84. The transportation analysis will include all reasonable alternatives for access from I-84, including modifying the existing partial interchanges known as Herman Creek Interchange and East Cascade Locks Interchange. The EIS will also analyze a new interchange at the existing Forest Lane overpass. This would be a full directional "diamond" configuration interchange with direct access to/from I-84 at Forest Lane and the south Frontage Road within the city limits of Cascade Locks. (see [EIS Process](#))

Tribal-State Compact



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On April 6, 2005, the Governor of Oregon, Ted Kulongoski, and the Warm Springs Tribal Council Chairman, Ron Suppah, signed a [Tribal-State Compact](#) as an initial step in the process of putting off-reservation land into trust for gaming purposes. In May, the Secretary of the Interior determined that the Cascade Locks property must be taken into trust and a Section 20 determination made before acting on the Tribal State Compact (see [Department of Interior Compact Response](#)).

The Tribal-State Compact describes the terms and conditions for conducting gaming on industrial lands within the City of Cascade Locks. Gaming operations will cease at Kah-Nee-Ta High Desert Resort and Casino upon opening of the Cascade Locks Resort and Casino, consistent with the State's "one-casino-per-tribe" policy.

In the Compact, the Tribe agrees that resort and casino development will be consistent with the Columbia River Gorge National Scenic Area Act; that the design of facilities will be of the highest architectural quality taking into account the natural surroundings; that sustainable building technologies and techniques will be used and that renewable energy sources will be pursued; and that a traffic

management plan will be designed and implemented with the assistance of the State to minimize emissions caused by vehicular traffic and other greenhouse gases.

The Tribe also agrees to settle Hood River County land issues. Under the Indian Gaming Regulatory Act (IGRA), the Tribe has the right to conduct Class III gaming on certain Hood River Trust Lands taken into trust prior to 1988 that lie just outside the city limits of Hood River. The Tribe has acquired an additional 175 acres near the Hood River Trust Lands for use in conjunction with any gaming facility built on the Trust Lands. These lands are known as the Hood River Fee Lands. Additionally, the Tribe claims ownership to a portion of the Historic Columbia River Highway that passes through the Hood River Trust Lands (which the State of Oregon disputes).

With regard to the Hood River Trust Lands, the Compact grants the State a perpetual "conservation easement," which prohibits future development of those lands. With regard to the Hood River Fee Lands, the Tribe will place a perpetual "conservation easement" on the lands that prohibit future development of the lands and transfer the lands to the State. With regard to the Historic Columbia River Highway, the Tribe agrees to settle the dispute regarding ownership by granting a right-of-way to the State across Trust Lands.

The Compact also requires the Tribe to provide a transportation impact study to the Oregon Department of Transportation (ODOT) and to be responsible for the cost of transportation system improvements needed to serve the gaming facility and resort, including a potential new interchange on Interstate Highway 84 and local street improvements identified in the traffic impact study.

The Tribe agrees to share seventeen percent of its gross gaming revenue annually with the State. Under the agreement, the Tribe will deposit monies annually into a non-profit entity called the Oregon Benefit Fund, which will be managed by an independent board. Five to ten percent of the funds will be used for environmental purposes in the Columbia River Gorge. Another five percent may be used for economic development, and the remainder will be used for direct student assistance for postsecondary education in Oregon. The Tribe also agrees to create a Tribal Community Benefit Fund which will receive six percent of the facility's annual net income.

Other Decision Processes

In addition to NEPA, the Tribal proposal is subject to a variety of federal, state and local permits and review processes. Key among these are an Access Point Decision Report and an Interchange Area Management Plan (IAMP).

Both FHWA and ODOT policies require an Access Point Decision Report for any change in access to an interstate freeway. The report is a stand-alone decision by FHWA that will be approved concurrently with the EIS. The report will address eight specific policy topics:

1. Future Interchanges - Is the proposed access point revision compatible with a comprehensive network plan?
2. Land Use and Transportation Plans - Is the proposed access point revision compatible with all land use and transportation plans for the area?
3. Reasonable Alternatives - Have all reasonable alternatives been assessed and provided for?
4. Need for the Access Point Revision - What are the current and projected needs and why won't the existing access points and existing or improved local system meet the needs? Is the anticipated demand short or long trip?
5. Access Connections and Design - Will the proposal provide fully directional interchanges connected to public roads, spaced appropriately, and designed to full design level geometric control criteria?
6. Operational and Accident Analyses - How will the proposal affect safety and traffic operation now and for the next 20 years?
7. Coordination - Are all coordinating projects and actions programmed and funded?
8. Planning and Environmental Processes - Have the appropriate planning and environmental processes been completed?

ODOT policies require that an IAMP be prepared for a new interchange to protect the proper function of the proposed interchange (Oregon Highway Plan Policy 3C; OAR 734, Division 51). The purpose of

an IAMP is to protect the function of the interchange by maximizing the capacity of the interchange for safe movement from the adjacent freeway, to provide safe and efficient operations between connecting roadways, and to maximize the need for major improvements of existing interchanges. The IAMP will be prepared concurrently with the EIS and approved by the Oregon Transportation Commission. Among its actions, the IAMP will:

- Identify opportunities to improve operation and safety in conjunction with roadway projects and property development or redevelopment and adopt strategies and development standards to capture those opportunities;
- Include short, medium, and long-range actions to improve operations and safety in the interchange area;
- Consider current and future traffic volumes and flows, roadway geometry, traffic control devices, current and planned land uses and zoning, and the location of all current and planned approaches;
- Provide adequate assurance of the safe operation of the facility through the design traffic forecast period, typically 20 years;
- Consider existing and proposed uses of all property in the interchange area consistent with comprehensive plan designations and zoning.

Additionally, transportation system improvements will need to be coordinated with Union Pacific Railroad and consider potential effects to rail service through the area.

**CASCADE LOCKS RESORT AND CASINO EIS
DOCUMENT PREPARATION
Schedule for BIA Review**

Technical Report/EIS Section
Employment Effects/ Population Growth Memo and Addendum
Socioeconomics
Visual Impacts
Land Use
Transportation
Cultural Resources
Air Quality
Noise
Phase I - Hazardous Materials Investigation <i>Cascade Locks</i>
Hazardous Materials Investigation <i>Hood River</i>
Utilities
Water Quality Assessment
Biological Resources
Biological Assessment USFWS
Biological Assessment NMFS
EIS Chapter 1: Purpose and Need
EIS Chapter 2: Alternatives
EIS Chapter 3: Affected Environment
EIS Chapter 4: Environmental Consequences
EIS Chapter 5: Section 4(f)
EIS Chapter 6: Mitigation and Permitting Requirements
EIS Chapter 7: Consultation and Coordination
EIS Chapter 8: References
EIS Chapter 9: Distribution List
EIS Chapter 10: List of Preparers
EIS Chapter 11: Glossary and Index
Appendices

A Resort and Casino Uniquely Suited for the Columbia River Gorge

The Confederated Tribes of the Warm Springs Reservation of Oregon (the "Tribe") has an ancient connection with the Columbia River Gorge, and a strong tradition of protecting the environment of the Gorge. In keeping with this tradition, the Tribe has committed, in its compact with Governor Ted Kulongoski and memorandum of agreement with local Gorge communities, to take unprecedented steps to protect and preserve the beauty and environmental integrity of the Gorge through

- Perpetual protection of 215 acres of pristine land near Hood River;
- Unprecedented investment in environmental protection projects in the Gorge;
- Utilizing Gorge Commission-approved design standards, "green" building techniques, and best management practices in constructing the resort and casino facility; and
- Incorporating critical cultural components to connect visitors to the Tribe's ancient heritage in the Gorge.

I. **Preserving 215 Acres of Sensitive Lands near Hood River *Forever*** – The Tribe has forty acres of forested, natural trust lands just outside of Hood River (the "trust land"). It also owns outright 175 acres of similar land adjacent to the trust lands (the "fee land"). The trust land and the fee land are located adjacent to the Mark O. Hatfield Trail, a popular recreation site in the Gorge. In the compact, the Tribe agrees to grant to the State of Oregon a perpetual conservation easement over the trust land, and transfers ownership to Oregon's Park and Recreation Department of the fee land. Taken together, the Tribe is providing Oregonians with 215 acres of land to be protected in perpetuity from development. This land will remain in its natural state forever, preserving views from the Columbia Gorge Highway, and providing critical habitat for wildlife.

II. **Unprecedented Investment in Environmental Projects in the Gorge**

A. **Up to \$30 Million Earmarked for Gorge Environmental Projects in First Eleven Years of Operation** - In its compact with Governor Ted Kulongoski, the Tribe committed to contribute, in the first seven years of operation, 6-17% of its "net win" from gaming to a state foundation. The percentage of contribution increases after the seventh year of operation. Between five and ten percent of the revenues received by the foundation must be "expended for the purposes of preserving, protecting or enhancing natural and cultural resources within the [Gorge Scenic Area]." Based upon these figures, economic forecasts indicate that in the first eleven years of the project, between \$15 million and \$30 million will be earmarked by the foundation for "enhancing natural and cultural resources" in the Gorge. An advisory committee of "persons with demonstrated interest or experience in Columbia Gorge issues" will assist the foundation board in targeting funds at environmental projects such as acquisition and preservation of sensitive land, riparian rehabilitation, air quality improvements, acid rain reduction, etc. With the assistance of the Gorge advisory board, the foundation will be empowered to direct funds to tangible projects that matter most to the people who know the Gorge best.

B. \$55.4 Million Available for Local Communities' Conservation Efforts

- In the Tribe's Memorandum of Agreement with the City of Cascade Locks and Hood River County, the Tribe commits to contribute six percent of the net income of the gaming complex to a community benefit fund. After satisfying initial obligations to assist Cascade Locks in strengthening its infrastructure, the fund is to be used for a range of local community improvement measures, including "the environment" and "preserving, protecting or enhancing natural and cultural resources within the [Gorge Scenic Area]." The fund will be managed by a nine-member Board of Trustees, which must include at least one member "with a unique interest in the protection and conservation of the Columbia River Gorge[.]" Economic forecasts indicate that in the first eleven years of the project, \$56.6 million will be contributed to the community benefit fund. Fifty-five million, four hundred thousand dollars will be available for the Fund's discretionary purposes, including environmental projects in the Gorge. The environmental investments committed by the Tribe greatly expand upon existing, more modest efforts at protecting the Gorge, such as the \$622,790 spent by Friends of the Gorge in 2003 (the last year for which financial information is available on the Friends' website).

III. Rehabilitating Blighted Industrial Land with a World-Class Facility Using State-of-the-Art Green Building Elements and a Design Consistent with Gorge Commission Building Recommendations - In addition to pledging millions to improve the environment of the Gorge, the Tribe has taken great care to design a facility using state-of-the-art environmentally friendly building and landscape techniques in order to ensure that the facility itself is a good neighbor in the Gorge. In developing the Cascade Locks site, the Tribe is incorporating elements of the U.S. Green Building Council's Leadership in Energy and Environmental Design ("LEED") certification program, a nationally recognized standard for environmentally responsible building:

A. Building on a Blighted Industrial Site - The site is on industrial land, located in an industrial park. It will therefore not displace natural vegetation or wildlife habitat.

B. State-of-the-Art On-Site Water Management - The Tribe has taken great care to ensure that the best modern techniques are implemented to use and purify water on the site.

1. Vegetation filters and state-of-the-art filtration systems using natural compost materials will cleanse storm water drainage before delivery to groundwater, nearby Herman Creek or the Columbia. Cleansing begins with mosses and other vegetation actually planted on a portion of the roof of the facility, i.e. a "green roof."

2. Landscaping will feature native and drought-resistant plants to rehabilitate the industrial site and reduce water requirements.

3. The facility will use on-site rainwater to provide drip irrigation, reducing runoff as well as the municipal water requirements of the facility.

C. A Facility that Blends with the Natural Surroundings of the Gorge –

The Gorge is a beautiful and scenic area, so the Tribe has designed a facility which rehabilitates a blighted industrial area and emphasizes design elements which blend with the natural surroundings. Many of these elements are consistent with the stringent standards of the Columbia River Gorge Commission and U.S. Department of Agriculture's "Building in the Scenic Area: Scenic Resources Implementation Handbook" guidelines for building in the Gorge. Because the facility is located in the Cascade Locks urban area, the Tribe is not required to adhere to the Gorge Commission's standards. However, whenever possible, the Tribe has designed the facility to comport with best environmental practices in the Gorge.

1. The facility is specially designed to reduce its visibility, taking advantage of topographic and vegetative screening as recommended in the Gorge Commission's standards:

a. Views from the Columbia River and the Washington side of the river will be screened by an existing natural basalt knob between the facility site and the River, to be supplemented by native plants.

b. Views from the East will be screened by a well-developed natural tree canopy, which is retained in the facility plan.

c. To screen views from the South, poplars, Douglas firs, and cottonwoods will be planted along the existing railroad tracks to screen views of the facility from I-84. Plans call for planting a new coniferous forest, featuring Douglas Fir trees, in the vicinity of the planned I-84 interchange in order to blend that project with the surrounding environment, and provide additional screening.

d. To the West of the facility is additional industrial land owned by the Port of Cascade Locks.

2. Materials used on the exterior of the facility have been chosen to reduce reflectivity and blend with the natural environment, as called for in the Gorge Commission standards:

a. Plans call for use of grayish-tan siding, specially designed to reduce glare and reflectivity and blend with the surrounding environment.

b. Plans call for the use of specially tinted windows precisely angled to reduce visible exterior glare and reflections.

c. Plans call for specially coated metal and neoprene roofing, along with sections of green roofing, to reduce glare and heat reflection.

d. Exterior lighting will be hooded and directed downward to reduce visibility.

3. When possible, natural plants will be retained on the site. However, because the site is blighted industrial land, few if any natural plants exist. For that reason, large amounts of native plants will be planted to restore the site and screen the facility. Landscaping will feature native and drought-resistant plants to rehabilitate the industrial site and reduce water requirements. Specifically, plans call for the following trees recommended by the Gorge Commission to be planted on the site: Douglas fir, red alder, western red cedar, cottonwood, pacific dogwood, vine maple, and ponderosa pine. In addition, many smaller native plants will be used in landscaping. As noted by the Gorge Commission, use of native plants is preferable because they are known to thrive in the Gorge, require less maintenance and watering, and blend with the natural surroundings. Plans for the facility would satisfy the Gorge Commission requirement that half of trees planted for screening be species native to the setting.

D. **Reduce, Reuse, Recycle** – At every stage of the planning process, the Tribe has examined how to reduce the resources consumed by the construction and operation of the facility, how to reuse the resources available at the facility, and how to recycle waste from the facility.

1. Wood material used in construction of the facility will be certified by the Forest Stewardship Council as coming from sustainable, diverse forests and harvested using environmentally responsible methods.

2. The Tribe plans to use 10% recycled materials in building the facility. All of the steel used in construction will be recycled. All gravel and fill that must be removed from the site will be recycled and used for the I-84 interchange improvements.

3. The Tribe has a goal of 21% improvement in energy efficiency as compared to basic building code standards, and is committed to continued monitoring to ensure maximum efficient operation.

4. The Tribe plans to make use of the substantial amounts of rainwater that will fall on the site for drip irrigation of the native plants, reducing the need for municipal water consumption.

5. The Tribe plans to recycle 50% of the construction waste generated in building the facility.

6. The Tribe plans to operate a charter bus service from Portland to the resort and casino, reducing the number of automobile trips. The Tribe also plans to operate a bus service for employees to reduce the number of automobile trips.

IV. **Connecting with the Tribe's Cultural Heritage in the Gorge** – The Wasco Indians, one of the three tribes that make up the Confederated Tribes of the Warm Springs Reservation of Oregon, were from time immemorial a fishing people who resided in villages along the Columbia River. Prior to the construction of Bonneville Dam in 1937, the Cascade Locks area was an important fishery for the Wasco. An important dip-net fishery was located just upstream from the modern Bridge of the Gods, very near the

resort and casino site. In order to honor its heritage and history in the Cascade Locks area, the Tribe is including critical cultural components in the design of its resort and casino facility. These cultural components will connect visitors to the facility with the Tribe's ancient presence in the Gorge.

A. The exterior of the building itself is designed to resemble a Wasco fishing village, with an undulating roofline and siding that resembles the shapes and materials used by the Wasco in their dwellings.

B. Three thousand eight hundred feet of space inside the facility is planned for use as a cultural display area, with rotating exhibits and a planned model of the Celilo Falls fishing site.

C. Running throughout the facility will be a river cultural path, representing the twenty-six miles of the Columbia River between Cascade Locks and the area that now is occupied by The Dalles Dam. This stretch of river was the most frequently used and occupied by the Wasco.

D. Near the entrance of the building is a dramatic waterfall feature, which cascades from the top of the building to the ground, representing the importance of the river to the Tribe.

E. Plans call for a traditional salmon bake area on the grounds of the facility, to emphasize the historic cultural and nutritional importance of salmon to the Tribe.

CONCLUSION

In summary, the Confederated Tribes of the Warm Springs has an ancient spiritual and cultural connection with the Columbia River Gorge, and a strong tradition of protecting the environment of the Gorge. In keeping with this tradition, the Tribe has committed to take unprecedented steps to protect and preserve the beauty and environmental integrity of the Gorge for all people, for generations to come.

August 17, 2006

**Bridge of the Gods
Columbia River Resort Casino**

- **Depicts an abstract, architectural rendering reminiscent of an Indian fishing village.**
- **A long low linear building – it will**
 - **enhance its surroundings,**
 - **not obstruct or diminish the landscape,**
 - **compliment the environment it will reside in through extraordinary architecture.**
- **Our engineers have been and will remain extremely sensitive to the sustainability and improvement of natural vegetation and habitat, water quality and the treatment thereof, external use of lighting, the pursuit of LEEDS certification, the design/construction approach, and customer ease of site and building accessibility.**
- **The building’s “signature” will be an architectural representation of a river flowing from the east end of the facility to the other, with numerous water features along the way – culminating at the west end entrance with what is being portrayed as the “thundering falls”.**
- **The facility “footprint” (the dirt the building will cover) is and remains a desirable 277,000 sq ft. In order to accommodate the marketplace and the annual estimated guest visitation, total facility space will run approx. 600,000 sq ft.**
- **The facility will house a 240 room hotel w/lower level spa and pool, a conference center, casino, a jazz & blues club, an Indian exhibit hall & gallery, arcade and day care center and 5 restaurants. The facility will provide approx. 3,700 vehicular parking spaces, both surface and covered parking.**
- **At time of construction the project will deliver 400 jobs with an anticipated payroll of more than \$100 million. A labor agreement has been reached which ensures that union labor will build the high quality Bridge of the Gods Columbia River Resort Casino.**
- **As defined in the Tribal-State Compact, employees have freedom of association and the ability to bargain collectively. At opening, Bridge of the Gods plans to provide 1,742 +/- full time benefited jobs. Anticipated payroll at this time – approx. \$60.8 million.**



**Confederated Tribes of Warm Springs
Cascade Locks Resort and Casino**
WALSH BISHOP ASSOCIATES
17 June 2005

A Brief History of Cascade Locks

Originally known as the Wasco Indian Village of Shahala, the first Oregonians had a fishing village here for thousands of years prior to the arrival of the first Europeans. Located on the river at the point of the lower rapids, a trade village developed where roots and deer from the western slope of the Mountains, were traded for Salmon caught on the river, horses from the east side and a wide variety of other products hunted and gathered from both sides of the mountains. These lower rapids became known by European settlers as The Cascades, and the adjacent Mountains still bear that name.

Lewis and Clark passed through the river twice on their journey. On April 14, 1806 Meriwether Lewis wrote:

“... The wind arose and continued hard all day but not so violent as to prevent our preceding...the mountains through which the river passes nearly to the sepulcher rock, are high broken, rocky partially covered with fir, white cedar, and in many places exhibit very romantic scenes. Some handsome cascades are seen on either hand tumbling from the stupendous rocks of the mountains into the river.”

At the village at the lower rapids, Lewis's dog Seman, a large Newfoundland went missing, causing Lewis to threaten to shoot men from the village if the dog was not returned. The dog was returned the next day. The explorers used 'fiddle diplomacy' to patch up the disagreement, playing a fine tune while Lewis's slave York danced.

The Oregon Trail proved hazardous here as lives of the pioneers who had made it this far drowned in the rapids floating their belongings down the river by raft. As the great westward migration of 1843 continued, and later, eastern Oregon was found to be well suited for dry land farming and gold was discovered in Idaho, the Columbia River was the only avenue of transportation which could accommodate commerce. The Cascades rapids proved to be a major hazard to navigation, where the mighty river was

squeezed into a 200 foot channel with a fall of 36 feet, with deadly reefs and boulders across the whitewater channel.

In 1876 Congress appropriated \$90,000 to the Army Corps of engineers to build the namesake navigation locks that would allow safe transit of the rapids. It took 20 years, many disastrous floods, scarce appropriations, labor disputes and all manner of difficulty before the locks were completed in 1896. The Locks operated until 1937 when the waters of Bonneville Dam inundated the rapids permanently.

Between the years of 1876 and 1940 Cascade Locks was a construction, transportation and logging town, first named Whiskey Flats, with all of the raw boned character that the name implies. For most of its modern history Cascade Locks has been a town with its sleeves rolled up: accommodating the needs of river transportation, building the locks, Bonneville Dam, Interstate 84 and most recently the second powerhouse at Bonneville Dam.

During World War II, and through the late 1970's Cascade Locks was a mill town, with large log rafts moored in Herman Creek and Government Cove, awaiting market conditions for milling, and shipment downriver to Portland and the world.

Now that the major construction projects of the Columbia River Gorge had been completed, the town turned to lumber and tourism. One provided the community jobs, for awhile, while tourism suffered as the new Interstate took travelers past the town at the speed of a more modern age.

Since the closing of the Cascade Locks Lumber Company in 1981, Cascade Locks has steadily lost employment and residents. A few small wood products and light manufacturing plants remain, but for the most part, the small town which housed the construction crews which built the locks, dams and freeway which now define the Columbia River Gorge's modern history, has quietly waited for a new era of tourism to dawn.

Cascade Locks Community Profile

2004

Cascade Locks is a City standing at the crossroads, both literally in terms of its location, and figuratively in terms of opportunities presenting themselves. The community has shown signs of stagnation and decline for several decades. Its unemployment rate is high, its industrial park has not attracted new investments or jobs, and its downtown is marked by a growing number of vacant storefronts and a lack of new development. The city's population growth has not matched the growth of the State or even Hood River County over the past decade. The community has long recognized that it is a special place but that it needs renewal if it is to survive and prosper.

Cascade Locks Issues

- 59% of Cascade Locks Residents are considered Low to Moderate Income.
- Cascade Locks has no medical services available to its residents.
- There are no financial institutions to serve the needs to Cascade Locks residents and businesses.
- The percentage of population with a bachelor's degree or higher is significantly below state average.
- Population density is below the state average.
- 37% of Cascade Lock's 427 households have children under the age of 18.
- 17% of the Hood River County population under the age of 18 lives in poverty compared to 14% statewide.
- Cascade Locks represents only 5.4% of the county's population yet represents 16% of the law enforcement caseload.
- Foreign-born population percentage is significantly above the state average.
- Cascade Locks has been in an economic recession for more than 20 years.
- Many families in Cascade Locks are engrained in Poverty. The prospect of quality jobs can potentially provide the youth of the community with a feeling of hope.

Population Characteristics

	Population					
	1980	1990	1998	2000	2001	2003
City of Cascade Locks	838	930	1095	1115	1113	1112
City of Hood River	4,329	4,632	5,130	5,831	5,905	6,139
Hood River County	15,835	16,903	19,500	20,411	20,455	20,760

Health Care Issues

Nearest Hospital: Providence Hood River Memorial Hospital, 20 miles from Cascade Locks

There are no medical facilities available in Cascade Locks.

Business Issues

Largest Private Employers

Employer—Product/Service	Number of Employees
Cascade Wood Components—Lumber	42
Bear Mountain Forest Products—Wood Fuel Pellets	34
Chinook Sailing Products—Light Manufacturing	20
Columbia River Inn—Tourism	13

There are no financial institutions in Cascade Locks

Total Businesses in Cascade Locks 43

37 firms identified by the Employment Department as paying covered wages. Many basic services are unavailable in Cascade Locks.

Poverty Issues

People of All ages in Poverty - 2000

	Number		Percent	
Oregon	361280	340,221 to 382,340	10.6	10.0 to 11.2
Hood River County	2,471	1,925 to 3,018	12.3	9.6 to 15.0

County Estimates for People Under Age 18 in Poverty for Oregon: 2000

State and County	Number		Percent	
	Estimate	90% Confidence Interval	Estimate	90% Confidence Interval
Oregon	127,544	115,946 to 139,142	15.1	13.7 to 16.5
Hood River County	1,120	849 to 1,391	20.5	15.6 to 25.5

County Estimates for Related Children Age 5 to 17 in Families in Poverty for Oregon: 2000

State and County	Number		Percent	
	Estimate	90% Confidence Interval	Estimate	90% Confidence Interval
Oregon	81,627	71,92,010	13.6	11.9 to 15.3
Hood River County	750	542 to 958	19.4	14.1 to 24.8

County Estimates for Median Household Income for Oregon: 2000

State and County	Estimate	90% Confidence Interval
Oregon	\$41,662	\$39,856 to \$43,468
Hood River County	\$38,916	\$36,099 to \$41,953
Cascade Locks	\$29,719.25	Based on 2004 Household Survey

Crime Issues

**Crime Comparison Per Capita
(State vs. Cascade Locks)**

Type of Crime	Cascade Locks	State
Vandalism	16	13.3
Drug Law	9	6.86
DUII	12	7.38
Theft	27	1
Criminal Trespass	6	-
Parole Violation	9	-
Warrant	13	-

(Data is from the Law Enforcement Data System for the State, 2000 and the Hood River County Sheriff's Department from Cascade Locks. Data is per 1000 residents.)

Crime Comparison (County vs. Cascade Locks)

Cascade Locks represents only 5.4% of the county's population. Hood River County has a population of a little over 20,400 and the City of Cascade Locks has a population of 1,115.

Type of Crime	Hood River County	Cascade Locks	%of crime in Cascade Locks
Warrants	219	51	16%
Theft 1	152	27	18%
Theft 2	290	12	4%
Theft 3	81	15	19%
Burglary 1	70	11	16%
Burglary 2	76	18	24%
DUII	316	42	13%
Controlled Substance	131	25	19%
Criminal Mischief 1	51	4	7.8%
Criminal Mischief 2	193	41	18%
Criminal Mischief 3	65	12	18%
Sex Crimes	37	8	21%
Assault 4	160	28	17%
Assault	29	4	14%
Total	5285	852	16%

Crime data if from the Hood River County Sheriff's Office from 1-1-2000 to 4-1-2002.

Education Issues

**Academic Statistics (2001)
% of Cascade Locks Students meeting State Standards**

	Cascade Locks	Hood River County School District	State
Reading	65%	67%	71%
Math	58%	66%	67%
Writing	92%	69%	82%
Math Problem Solving	8%	64%	51%

Cascade Locks data is from small samples and is subject to yearly variations.

Cascade Locks School Enrollment (1/31/04) 169 students, 60 in grades 9-12
Free and reduced lunch: 48% in Cascade Locks and 39% statewide in 2003
The 2004 Student population is 80% of the 2002 population.

Labor Force Issues

2000 Census profile

	Hood River County		Cascade Locks	
	Number	Percent	Number	Percent
Population	20,411		1,115	
Hispanic	5,107	25.0%	80	7.2%
Civilian Labor Force	10,193		537	
Employed	9,525		495	
Unemployed	668	6.6%	39	7.3%
Occupational Profile	9,525		495	
Management, professional, and related occupations	3,091	32.5%	83	16.8%
Service occupations	1,619	17.0%	89	18.0%
Sales and office occupations	1,922	20.2%	120	24.2%
Farming, fishing, and forestry occupations	830	8.7%	7	1.4%
Construction, extraction, and maintenance occupations	903	9.5%	87	17.6%
Production, transportation, and material moving occupations	1,160	12.2%	109	22.0%
Industry Profile				
Agriculture, forestry, fishing and hunting, and mining	1,333	14.0%	13	2.6%
Construction	660	6.9%	58	11.7%
Manufacturing	877	9.2%	83	16.8%
Wholesale trade	597	6.3%	8	1.6%
Retail trade	1,100	11.5%	57	11.5%
Transportation and warehousing, and utilities	336	3.5%	35	7.1%
Information	328	3.4%	12	2.4%
Finance, insurance, real estate, and rental and leasing	207	2.2%	15	3.0%
Professional, scientific, management, administrative, and waste management services	658	6.9%	32	6.5%
Educational, health and social services	1,758	18.5%	63	12.7%
Arts, entertainment, recreation, accommodation and food services	985	10.3%	57	11.5%
Other services (except public administration)	320	3.4%	22	4.4%
Public administration	366	3.8%	40	8.1%
Households	7,260		431	
Median household Income in 1999	\$ 38,326		\$ 35,284 ¹	
Median family Income in 1999	\$ 41,422		\$ 37,422	
Median Earnings				
Male, full-time, year round	\$ 31,658		\$ 35,469	
Female, full-time, year round	\$ 24,382		\$ 25,234	
Poverty Status in 1999				
Families	514	9.8%	55	17.0%
Female householder families	182	27.5%	29	52.7%
Individuals	2,845	14.2%	211	19.0%

2002 Covered Employment and Wages

	Hood River County	*Cascade Locks 97014
	Number	Number
Public and Private Establishments	1,037	37
Annual Employment	9,627	409
Total Payroll	\$217,180,225	\$ 9,475,027
Average Pay	\$ 22,559	\$ 23,144

Source: Worksource Oregon

1. Based on a 2004 Median Household Income Survey conducted in Cascade Locks by an independent third party consultant, the median income for Cascade locks is \$29,719.25 verses the \$35,284 1999 estimate for the County listed on page 3. The bottom of page 2 includes a 2000 estimate from the Census of 38,916 for the County.

Wage Issues

Average Annual Wage by County—2002

Fall 2004

County	Average Covered Payroll
Hood River	\$22,600
Malheur	\$24,164
Lincoln	\$24,449
Wasco	\$25,217
Polk	\$25,934
Coos	\$26,731
Umatilla	\$27,656
Klamath	\$27,755
Douglas	\$28,445
Average for Entire State	\$33,685

Hood River County is the lowest in State.

Other Counties represented have a casino presence.

Source: OECDD

**STATUS OF FEDERAL LEGISLATION TO LIMIT OFF-RESERVATION GAMING
AUGUST 16, 2006.**

IN THE SENATE –

S. 2078, Senator John McCain's (R, Az.) bill to revise the Indian Gaming Regulatory Act (IGRA), including limiting off-reservation gaming, was amended and approved by the Senate Committee on Indian Affairs March 29 and was reported to the Senate floor June 6, 2006 (Senate Report 109-261). McCain chairs the Committee. As reported, the bill eliminates authority for established tribes to acquire off-reservation sites for gaming facilities, but includes a "grandfather" provision (Section 10(1)(A)) allowing tribes with IGRA Sec. 20(b)(1)(A) off-reservation site applications filed with the Bureau of Indian Affairs before April 15, 2006 to continue consideration under the present rules. Warm Springs filed its Sec. 20(B)(1)(A) application for the Cascade Locks gaming site on April 8, 2005, and so qualifies. Please note that meeting this qualification only enables the consideration of the Cascade Locks site to continue under existing rules, which still require the "two-part determination" that the Interior Secretary determine the project is in the best interests of the tribe and not detrimental to the surrounding community, and then that the Governor concurs in the Secretary's determination.

When S. 2078 is considered on the Senate floor, McCain is expected to move the grandfather qualification date back to March 29, 2006, a date for which the Cascade Locks site still qualifies. A number of objections have been lodged against S. 2078, both for tightening and easing its provisions, and these objections are at present preventing S.2078's consideration on the Senate floor. None of these objections bear upon grandfathering as it relates to Cascade Locks. It is unclear at this time whether, in the limited time remaining in this Congress, McCain will be able to resolve these objections so that the bill might be able to pass the Senate.

IN THE HOUSE –

On July 26, 2006, the House Committee on Resources amended and approved H.R. 4893, Chairman Richard Pombo's (R, Calif.) bill to restrict tribal off-reservation gaming. As approved, the bill eliminates off-reservation gaming for established tribes with reservations, but includes a fairness provision (Section 3(b)) to allow tribes far along in the current off-reservation consideration process the ability to continue consideration under the current rules. To qualify for this "grandfather" provision, a tribe's off-reservation site must be in the tribe's state, the application for acquiring the land in trust for gaming must have been filed with the Bureau of Indian Affairs by March 7, 2006, and the gaming site must be located in "an area where the Indian tribe has a primary geographical, historical, and temporal nexus." Warm Springs, with its demonstrated connection to the Columbia River Gorge and the Cascade Locks area both since time immemorial and in modern times, is among the very limited number of tribes nationwide that meet these requirements. As noted for the Senate grandfathering provision, meeting H.R. 4893's qualifications still requires an off-reservation gaming proposal to be approved in the Secretary's two-part determination, and that the Governor concur.

H.R. 4893 was approved on a 23 – 9 bipartisan Committee vote and is cosponsored by the Ranking Democrat on the Committee. It is generally expected to pass the House.

Neither bill changes the ability of a tribe to conduct gaming on land held in trust for a tribe prior to 1988.



March 24, 2006

The Honorable Richard Pombo, Chairman
Committee on Resources
1324 Longworth House Office Building
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Nick Rahall,
Ranking Member, Committee on Resources
1329 Longworth House Office Building
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Greg Walden
1210 Longworth House Office Building
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Peter DeFazio
2134 Rayburn House Office Building
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Pombo, Ranking Member Rahall, Representative Walden, and Representative DeFazio:

We, the four undersigned, are the principal parties that have, after years of effort, reached agreement on and signed a Compact and related Memorandum of Agreement for the establishment of a Confederated Tribes of Warm Springs Class III gaming facility in an industrial park in the City of Cascade Locks, Oregon, 38 miles from the Warm Springs Reservation. We jointly write to request that any possible legislation to amend the Indian Gaming Regulatory Act allow this project a fair opportunity to proceed to conclusion under the laws that are currently in place.

These laws have guided us to date, and revising them to place new hurdles before the Confederated Tribes may preclude the completion of the project. While changes to the existing law may be reasonable for the consideration of new project proposals, we are far into the established process for a Class III facility at Cascade Locks, which is both in-state and within the Warm Springs aboriginal area. If legislation is going to substantially change IGRA Section 20(b)(1)(A), we urge you to include language which allows projects that are in-state and within established aboriginal territory, and in which complicated multi-party negotiations involving the State and other affected parties have already concluded, to continue under existing laws regarding approval of such projects.

The Office of the Governor of the State of Oregon, the Confederated Tribes of the Warm Springs Reservation of Oregon, the City of Cascade Locks, Oregon, and the Hood

March 24, 2006
Page 2

River County Commission, Oregon, have dedicated considerable time, energy and resources to bring the Cascade Locks project to what we consider to be its final stages. Over more than five years, the Confederated Tribes of Warm Springs have spent \$10 million of their own funds on this project, and anticipate having to spend another \$12 million over the next year, including the complex and expensive NEPA process now underway. The State and Tribe spent nearly two years discussing this project and negotiating a comprehensive compact that is in the best interests of the State, the Tribe and the local area.

The Tribal-State Compact for the Cascade Locks project was signed by the Governor and the Tribe on April 6, 2005, and the City of Cascade Locks and the Hood River County Commission and the Tribe have signed a related Memorandum of Agreement. We submitted our signed Compact to the U.S. Department of the Interior in April, but the Department declined to consider the Compact on its merits until after the subject land at Cascade Locks has been taken into trust for gaming purposes. To that end, pursuant to IGRA Section 20(b)(1)(A), the Tribe has submitted the necessary information for the Secretary of the Interior's two-part determination for taking land into trust for gaming, and the BIA and its contractor have commenced the NEPA review process for the Cascade Locks property. Scoping sessions occurred from September 15 through September 28, the Scoping comment period concluded December 31, 2005, and the NEPA process is now moving into its next phase.

As noted above, the project is within the State of Oregon, and within the Warm Springs Tribe's recognized aboriginal territory. The site is along the Columbia River, where Warm Springs fishermen continue to engage in their ancient and treaty-protected salmon fishing. We believe the Cascade Locks project represents a model example of how IGRA's off-reservation provisions in Section 20(b)(1)(A) can be successfully and sensibly used for the benefit of tribes, states and local governments. The local community, the Columbia River Gorge area, the Tribe, and the State will all benefit from this project and the agreements we have reached. In particular, the Compact provides important environmental protection for nearby tribal trust land outside Hood River, Oregon where the Tribe has previously expressed an interest in building a casino. We have carefully followed and relied upon existing law and processes and have negotiated complicated and detailed agreements for our mutual benefit based on those laws. We ask that any legislation to amend IGRA not deprive us of an opportunity to complete our efforts under the laws that were in place when we began this process. To do otherwise could unfairly force the Tribe to forfeit its substantial investment in this project and could invalidate years of effort by all of the involved parties, notwithstanding our good faith reliance upon established law and process.

March 24, 2006
Page 3

Thank you for your consideration and your attention to these important issues.

Sincerely,



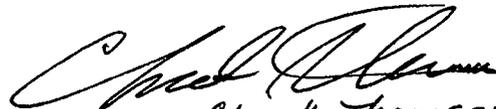
THEODORE R. KULONCOSKI
Governor, State of Oregon



Ron Suppah
Chairman, Confederated Tribes of the Warm
Springs Reservation of Oregon



Ralph Hestgard
Mayor, City of Cascade Locks, Oregon



Rodger Schoek *Chuck Thomsen*
Chairman, Hood River County Commission,
Oregon

**TESTIMONY OF RON SUPPAH
CHAIRMAN, WARM SPRINGS TRIBAL COUNCIL
CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON**

**TESTIMONY
SUBMITTED TO THE COMMITTEE ON RESOURCES
UNITED STATES HOUSE OF REPRESENTATIVES**

**HEARING ON H.R. 4893, TO AMEND SECTION 20
OF THE INDIAN GAMING REGULATORY ACT
TO RESTRICT OFF-RESERVATION GAMING**

**WASHINGTON, D.C.
APRIL 5, 2006**

Chairman Pombo and members of the Committee, my name is Ron Suppah and I am Chairman of the Tribal Council of the Confederated Tribes of the Warm Springs Reservation of Oregon ("Warm Springs" or "Warm Springs Tribe"). I am submitting this testimony today and ask that it be made a part of the Committee's April 5, 2006 hearing record on H.R. 4893. This testimony strongly recommends that the Committee amend H.R. 4893 to include a specific fairness "grandfather" provision for tribes currently engaged in the IGRA Section 20(b)(1)(A) Secretarial two-part determination process. This testimony also describes our Tribe's efforts and activities regarding the land into trust and the Secretarial Two-Part Determination processes for our off-reservation casino project in the City of Cascade Locks, Hood River County, Oregon.

INTRODUCTION

The Warm Springs Tribe is now engaged in the process of seeking federal approval of a tribal gaming facility at a location within our aboriginal and Treaty ceded lands 38 miles from our Reservation and 17 miles from a parcel of Warm Springs trust land that is eligible for gaming. Our actions are based on unique circumstances, and we are well along in the process. In our efforts, which have been underway for several years and are based on a partnership forged with the surrounding community and with Oregon's Governor, the Tribe has been diligent, open and fair, and we have scrupulously abided by all applicable laws, regulations and guidelines. Doing so has been expensive. Through 2005, we have spent \$4.2 million on the Indian Gaming Regulatory Act ("IGRA") and land-into-trust processes. We have also spent about \$8 million for architecture, engineering and design services. All of this has been our own money. Although we do not know whether we will succeed in this effort, we believe we have been following a model process for pursuing gaming on after-acquired land and ask that, as the Committee considers revisions to the Indian Gaming Regulatory Act, you amend H.R. 4893 to provide a fairness provision that will allow our tribe and tribes in similar circumstances an opportunity to complete the process as it is currently written.

In pursuing this project, we are following procedures based on IGRA for securing a Class III Gaming Compact with the Governor of the State of Oregon and for obtaining the Secretary of

Interior's "two-part determination" and the Governor's concurrence in that determination under Section 20(b)(1)(A) of IGRA. We are also following regulatory procedures set forth in 25 CFR Part 151 for acquiring an off-reservation parcel of land in trust for gaming purposes. As we pursue the land-to-trust and "two-part determination" process we are guided by the Compact we signed on August 6, 2005, with the Governor of Oregon and by the Memorandum of Agreement we executed on March 25, 2005, with the local host governments, Cascade Locks and Hood River County. Both of these agreements address in great detail the impacts and benefits of the project to the surrounding community and to the State of Oregon.

Before examining these particular processes in more detail, I would like to provide some background on the dire financial circumstances that have led us to pursue this project. I would also like discuss how we gained the support of Oregon's Governor and the local community for the project, and the costly and time-consuming efforts we have been making to pursue the project to this late stage in the existing IGRA process.

DECLINING TRIBAL ECONOMY

Warm Springs Background

The Warm Springs Indian Reservation is a beautiful but remote expanse of 650,000 acres in north Central Oregon. The Warm Springs Reservation is almost entirely trust land and, as the only reservation in Oregon excluded from Public Law 280, 67 Stat. 588 (1953), the Tribe is the governmental entity primarily responsible for public safety and other essential governmental services on the reservation. For many years, the Warm Springs tribal government has relied on timber and hydroelectric revenues to support governmental services to our more than 4,400 enrolled members. In recent years, however, these revenues have declined and have been insufficient to meet our governmental needs.

Declining Tribal Revenues

The dramatic decline in our timber revenues illustrates the problem we are facing. In 1994, timber revenues contributed \$23.8 million toward our total tribal revenues of \$37.6 million. By 2002, timber revenue had plummeted to just \$5.7 million, bringing total tribal revenues down to \$25.3 million. Thus, over this recent eight-year period a 74% drop in tribal timber revenue resulted in a 33% decline in total tribal revenues.

The long-term outlook for timber income continues to be pessimistic as our tribal forest resource adjusts to conservative sustained yield forest management practices and the national and global wood products markets continue to remain depressed. As a result, the decade-long decline in the Tribe's revenue picture is projected to only worsen in the years ahead. Tribal revenue projections show 2002 actual revenues of \$25,594,000 declining steadily to 2011 forecasted revenues of just \$19,404,000. The Tribe's cash flow forecasts show that, beginning in 2006, basic operational expenditures are likely to exceed revenues. This means the Tribe will be required to dip further into its Revenue Reserve ("Rainy Day") Fund, just to try to provide minimum governmental services to the tribal members and reservation residents, or, alternatively, impose very painful budget cuts in tribal operations. Indeed, just recently the

Tribe's revenue decline forced us to slash our 2006 base budget by \$2 million, which was accomplished only by eliminating entire tribal departments such as the Tribal Economic Development Department. We anticipate that the 2007 budget will require an additional \$2 million cut and a further \$1.5 million reduction will be needed for the 2008 tribal budget.

Consequences

As tribal revenues decline over time, essential governmental services and needs go unmet and additional needs accrue. In addition, tribal enterprises are deprived of capital needed to grow and provide on-reservation job and training opportunities. The shrinking job base and high unemployment drive a sizable portion of the reservation population to depend entirely on federal and tribal social service programs, which have experienced budget cuts in each of the last ten years.

The Tribe's increasing membership, decreasing revenues, and accruing unmet needs present an unsustainable cycle that the Tribe seeks to remedy with revenues from the Cascade Locks gaming facility. Increased tribal income is needed to provide services and infrastructure to help reverse this negative trend, especially in the areas of education, health care and economic opportunity programs.

WARM SPRINGS GAMING, HOOD RIVER AND CASCADE LOCKS

Our Current Casino

In an effort to address this growing financial crisis, in 1995 the Tribe opened a small Class III casino on the reservation as part of the Tribe's existing Kah-Nee-Ta Resort. However, the Kah-Nee-Ta casino is isolated from Oregon's major population centers, and its revenues have done little to span the growing gap between our Tribe's income and our governmental requirements. As a result, our tribal budgets have continued to decline and we have been forced to cut services as well as draw upon our limited emergency reserve funds. Under the terms of our Compact with Oregon's Governor for the Cascade Locks casino, which we signed on April 6, 2005, we are required to close the casino at Kah-Nee-Ta when we open our facility at Cascade Locks.

The Columbia River

To address the Tribe's increasingly difficult financial circumstances, in the late 1990s we conducted a survey of potential alternative gaming sites. This process led to a tribal referendum, approved by nearly 80% of the tribal voters, directing the Tribal Council to pursue development of a casino on our traditional lands along the Columbia River. We initially focused on a 40 acre parcel of pre-IGRA tribal trust land, which is eligible for gaming, on a wooded hillside overlooking the Columbia River just outside the City of Hood River, Oregon.

Since time immemorial, the Columbia River has been the home of our people. Its salmon, eels and other foods have nourished untold generations, and when we agreed in our 1855 Treaty to move from our traditional homes along the Columbia River and its Oregon tributaries to our

current reservation south of the Columbia, our forefathers were careful to reserve our rights to continue to fish on the river as well as hunt, graze and gather traditional foods throughout our Treaty ceded lands. Fishing on the Columbia River remains at the core of our culture, and many of our people continue to fish today for ceremonial, subsistence, and commercial purposes. Indeed, many of our tribal members live year-round on the Columbia's banks, and thousands of acres of individual Indian and tribal trust allotments are scattered along the Columbia.

Hood River and Cascade Locks

As the Tribe moved forward with preparations to develop a casino on the Hood River trust land, the City of Hood River and others in the area expressed concerns about locating a casino there. At that time, 1998 and 1999, the struggling community of Cascade Locks, Oregon, seventeen miles to the west, approached the Tribe about the possibility of locating a facility in the mostly vacant Cascade Locks Industrial Park, which was created in the 1970's along the banks of the Columbia River out of fill material from construction at nearby Bonneville Dam. The Cascade Locks site is within the Tribe's Treaty ceded lands along the Columbia River in which Warm Springs holds federally protected off-reservation treaty reserved fishing, hunting and gathering rights. The Cascade Locks site is also within the area determined by the Indian Claims Commission in *Confederated Tribes of the Warm Springs Reservation of Oregon v. United States* (Docket No. 198) to be the Warm Springs Tribe's aboriginal lands exclusive of the claims of any other tribe or tribes.

Shifting the Tribe's Columbia River casino development plans from the gaming-eligible Hood River site to the Cascade Locks Industrial Park site will be beneficial for both the Cascade Locks and Hood River communities as well as the State of Oregon. Cascade Locks, like our Tribe, desperately needs an economic boost. Based on binding commitments made in our Compact and in ancillary agreements with the State, developing a casino at the Cascade Locks Industrial Park preserves the pristine and undeveloped Hood River trust lands, thus alleviating Hood River's concerns about a casino in their community. Forgoing development of the Hood River trust lands also means the trust land's scenic values will be retained and the land, otherwise exempt from State and federal Columbia River Gorge National Scenic Area Act restrictions, will be managed consistent with an adjacent Oregon State Park.

PROCESSES

When Warm Springs decided to work with Cascade Locks in pursuing a casino, we fully recognized the off-reservation site posed new and very significant challenges. Unlike the Hood River trust lands site, which is already gaming-eligible, we understood that we would have to pursue the IGRA Section 20 (b)(1)(A) "two-part determination" and the 25 CFR Part 151 fee-to-trust process to take the Industrial Park site into trust for gaming. We recognized we would have to be exceptionally diligent and careful in addressing these challenges, that we would have to, in fact, conduct a model process that would be very expensive. In examining this process below, we divide its elements into four distinct procedural parts, which we discuss in turn: 1) Pursuing the Compact with the Governor and the Memorandum of Agreement with the local governments, 2) Undertaking the 25 CFR Part 151 land into trust process and the IGRA Section 20(b)(1)(A) two-part determination process, 3) working with the BIA on preparation of

the Environmental Impact Statement, and 4) On-going casino architectural, design and engineering activities.

1) The Compact and Local Government Agreements

In our discussion of the procedures we are following to pursue our off-reservation facility, we are including a discussion of our Compact and ancillary agreements with the State, and our Memorandum of Agreement with the local governments, because we firmly believe that reaching those agreements first plays an essential role in our subsequent pursuit with our partners of the Secretarial two-part determination and the land into trust process. In negotiating and achieving these agreements, the parties have developed a trust and commonality of purpose. Moreover, this effort has allowed the Tribe to forge a formal partnership with the State and local governments, based on the Compact and the Memorandum of Agreement, that has greatly facilitated the consultations required by the fee-to-trust and two-part determination processes. Our partners know our plans, understand how we will mitigate impacts and agree on how the project will benefit the local community and the people of Oregon. Accordingly, they have been able to participate in the fee-to-trust and two-part determination processes based on certainly and a shared commitment to the project. In short, we discuss these agreements because they are an essential component in the Cascade Locks effort.

Informing the Oregon Governor's Office and the Department of the Interior of the Tribe's intention to develop a casino at the Cascade Locks site in lieu of the Hood River trust lands site, in 1999 the Tribe initiated what became years-long discussions with Cascade Locks and the State that resulted in a series of agreements signed in March and April, 2005 between Cascade Locks, the Tribe and the State. These agreements include 1) a Class III gaming Compact with the State, 2) a separate agreement with the State securing the perpetual preservation of the pristine Hood River trust lands, which was a threshold priority of the Governor, and 3) a comprehensive Memorandum of Agreement with the City of Cascade Locks and Hood River County addressing impacts of the casino on the local community. Our approach of entering into these agreements before taking the land into trust for gaming was intended to address any local concerns about developing a casino in the Cascade Locks Industrial Park and to secure the Governor's commitment to concur in the Secretary's two-part determination pursuant to Section 20(b)(1)(A) based on the Tribe's obligations regarding environmental protection, working conditions, the Community Benefit Fund and revenue sharing as set out in the Compact. This approach has led to unanimous governmental acceptance of the Cascade Locks site, as indicated by the thirty-two federal, State and locally elected officials who have endorsed and embraced the Cascade Locks site in an April 29, 2005, letter to Interior Secretary Norton (attached) and based on the positive responses from the local governments in Oregon and Washington and the Governor of Oregon in the BIA consultations required by the two-part determination and the 25 CFR Part 151 processes.

Regarding the Compact, in March of 2004, we entered into formal negotiations with the State that concluded over a year later when the Governor and the Tribe signed the Compact on April 6, 2005. In reality, however, we began informal discussions with the State on the terms of a Cascade Locks compact almost a year and a half earlier in the fall of 2002, which is about the same time that we started work on the Memorandum of Agreement with the City of Cascade

Locks and Hood River County. The product of these lengthy and time-consuming negotiations is a Compact that is unusually comprehensive and fair, and is supported by the local counties, nearby cities and towns in Oregon and Washington, Congressman Greg Walden (R-Ore) who represents Cascade Locks and Hood River, and State legislators from the area, in addition to the Governor, Cascade Locks, and our Tribe. The Compact provides the public in Oregon and Washington with an advanced notice of the environmental benefits to Cascade Locks and nearby Columbia River Gorge communities should the contingency of taking the Cascade Locks land into trust become a reality. Specifically, approximately 40 acres of tribal trust lands near Hood River would be perpetually protected against development; an additional 175 acres of adjacent scenic Columbia River Gorge lands currently owned by our Tribe would be perpetually protected and conveyed to the Oregon State Parks Division; environmental protection, energy efficiency and sustainable building standards would define and control our casino/resort development; and millions of dollars from a tribally established Community Benefit Fund would be used to protect and enhance the Columbia River Gorge National Scenic Area. (A more detailed description of the environmental benefits provided by the Cascade Locks project is attached.) The Compact also provides very significant benefits to the state as a whole through revenue-sharing payments of up to seventeen percent of the casino's annual "net win" to a Warm Springs Tribe/Oregon Benefit Fund to be used primarily for college scholarships as well as for protection of the Columbia River Gorge and for economic development projects throughout Oregon.

The Tribe expended approximately \$2 million between the fall of 2002 and April, 2005 negotiating the Compact and related agreements with the State and developing the Memorandum of Agreement with Cascade Locks and Hood River County that addresses project impacts and mitigation and sets up a Community Benefit Fund.

On April 8, 2005, the Tribe and the Governor submitted the Compact to the Secretary of the Interior for the 45-day review provided under IGRA. As usual, the Secretary's review team asked for clarification regarding several sections of the Compact. When the Governor and Warm Springs submitted a response, we requested a meeting to go over the questions and responses. On the afternoon of May 17, four days before the end of the 45 day review period, we met with personnel from the Office of Indian Gaming Management, the Secretary's Office and the Solicitor's Office. In the meeting, we proceeded through our responses to the Department's questions, and while not all issues were resolved, there were no significant objections. Then, in the final ten minutes of the meeting, the Director of the Office of Indian Gaming Management informed us that the Secretary's Office had a fundamental concern about approving the Compact before the land was taken into trust, and was considering whether to disapprove the Compact on that basis.

The Tribe and the Governor's Office filed written responses within two days noting that we had acted in good faith on Interior Department representations that negotiating and executing the Compact first was acceptable, that the Compact specifies it becomes effective only when the subject land is taken into trust for gaming, and that IGRA does not require that the land be in trust at the time the Compact is approved. We also noted that the Secretary has, in the past, approved a number of compacts before the subject land has been taken into trust for gaming. Unfortunately, two days later, the Department disapproved our Compact due to the new

procedural requirement, previously unknown and unpublished and representing a reversal of previous practice, interpreting IGRA Section 11(d)(8)(A) to require that land must be in trust for gaming before the Secretary will consider the related compact. The Secretary's letter noted it does not address any element of the Compact other than that regarding procedural sequence.

2) The Land into Trust and the Two-Part Determination Processes

Coming at the 11th hour of our Compact's consideration, the Secretary's surprise policy announcement of course disappointed us. However, as a result of this decision, and as recommended in the Secretary's disapproval letter, we are proceeding forward with our application to take the land into trust under 25 C.F.R. Part 151 and for a Secretarial two-part determination under IGRA Section 20(b)(1)(A). On April 8, 2005 the Tribe formally submitted Tribal Council Resolution No. 10,500 and a written application to the BIA's Northwest Regional Office and to the BIA Office of Indian Gaming Management in Washington, D.C. requesting the initiation of land-into-trust proceedings for the Cascade Locks casino site. The request seeks 25 acres in the Cascade Locks Industrial Park to be taken into trust for the proposed casino and accompanying hotel. The April 8, 2005, application also seeks a Secretarial two-part determination under IGRA Section 20(b)(1)(A) that taking the 25 acres into trust for gaming purposes will be beneficial to the Tribe and its members and will not be detrimental to the surrounding community. Once the Secretary has made the positive two-part determination, the Governor has concurred in that determination, and the land has been taken into trust, we will resubmit the Compact for the Secretary's 45 day review.

In early June, 2005, the BIA Northwest Regional Office initiated the consultations required by the 25 CFR Part 151 fee-to-trust regulation by seeking comments and responses to specific issues set out in 25 CFR Sec. 151.11(d) from the governments with jurisdiction over the Cascade Locks property (City of Cascade Locks, Hood River County and the State of Oregon). The responses were uniformly positive and supportive of the Tribe's application to take the land into trust.

On June 15, 2005, the BIA Northwest Regional Office initiated the Secretarial two-part determination pursuant to IGRA Section 20(b)(1)(A) by sending our Tribe a consultation letter requesting information and responses to thirteen specific questions. At the same time, the BIA Northwest Regional Office solicited information and responses from appropriate State and local officials, nearby Indian tribes, and surrounding communities regarding the Cascade Locks project. On August 15, 2005, as that comment period concluded, Warm Springs formally submitted our 45-page response, with hundreds of pages of supporting exhibits. The responses from the surrounding community, defined in the Office of Indian Gaming Management's "checklist" for the two-part determination process as local governments within 10 miles of the casino site, tribes with trust land located within 50 miles and the Governor of the State in which the project is located, were broadly supportive of the project and expressed no objections.

The Tribe has expended approximately \$200,000 from March, 2005, through the end of 2005 in submitting and pursuing its application to take the 25 acres of Cascade Locks Industrial Park land into trust under 25 CFR Part 151 and for the Secretary's two-part determination under IGRA Section 20(b)(1)(A). This figure does not include the cost of the environmental review

which, although it is ancillary to the fee-to-trust and two-part determination processes, is discussed separately below.

3) The Environmental Impact Statement Process

Having completed the Compact agreement with Oregon's Governor and having executed the Memorandum of Agreement with the local governments addressing project impacts and benefits, we have moved into the very costly environmental review process required by the National Environmental Policy Act ("NEPA") for the Secretary's final decision on our fee-to-trust and two-part determination application. The process will generate a full environmental impact statement (EIS), and not just an environmental assessment. The BIA's Notice of Intent to prepare an EIS and to initiate the public "scoping" process was published in the Federal Register on August 30, 2005. From September 15, 2005, to September 28, 2005, the BIA Northwest Regional Office hosted five public scoping meetings on the EIS, with meetings in Hood River and Cascade Locks in Oregon, Stevenson, Washington, and in central Portland, some 40 miles distant from the proposed site. Public comments were accepted through October 15, 2005, and an additional thirty day public comment period on scoping issues was held throughout the month of December, 2005. Even before the publication of the Notice of Intent, the BIA held pre-scoping meetings with interested agencies in July and August, 2005 and a chartering meeting with the action and partner agencies on May 31, 2005. We anticipate a draft EIS will be presented for public review and comment this summer, with a final EIS due to follow in the fall. This process, which is part of the on-going fee-to-trust and two-part determination processes, is the last major step leading up to the Secretary's final decision and the Governor's concurrence. It is also an expensive process in which the Tribe is required to pay the full cost of the environmental contractor hired by the BIA to prepare the EIS.

We note that through the EIS public scoping process and through media advertisements intended to influence the Secretary's final fee-to-trust decision, it has become apparent that even though our project enjoys unanimous support from the local governments in the surrounding area and from Oregon's Governor, it is strongly opposed by the Grand Ronde Tribe whose Spirit Mountain Casino is located more than 100 miles from Cascade Locks but would share the Portland/Vancouver gaming market with the Cascade Locks casino. In contrast, two other Oregon tribes, the Siletz Tribe and the Coquille Tribe, have written letters to the BIA in support of the Cascade Locks casino. We are also opposed by Friends of the Gorge, a Portland group opposed to development in the Columbia River Gorge. While the Cascade Locks casino site is surrounded by the Columbia River Gorge National Scenic Area it is specifically excluded from the National Scenic Area because it is part of the City of Cascade Locks urban area, which is identified in the Gorge Act as the intended location of economic development in the Columbia Gorge. See, 16 U.S.C. sec. 544b(e), 16 U.S.C. sec. 544d(c)(5)(B) and 16 U.S.C. sec. 544(a)(2).

From the time in the spring of 2005 when the BIA formally engaged its environmental contractor for the Cascade Locks project, we have been paying the bills for their work. This includes work conducted before the publication of the Notice of Intent involving collection of baseline data for the EIS technical studies. All told, from the initiation of the NEPA process through the end of 2005, the Tribe has spent approximately \$2 million on the cost of the BIA's environmental contractor and other expenses associated with NEPA compliance.

4) On-Going Casino Architectural, Design and Engineering Activities

When, in 2002, the Tribe concentrated its efforts on the Cascade Locks Industrial Park site and began serious negotiations with the State and the local governments on the Compact and the Memorandum of Agreement -- the documents that would form the basis of our partnership with these critical entities -- we also begin work on the architecture, design and engineering aspects of the project. We did so because we understood that the visual and operational qualities of the facility would be important and legitimate concerns of our State and local government partners. Indeed, our commitments on issues concerning design and operation of the facility, such as visual compatibility with the surrounding landscape and our commitment to certain standards of energy efficiency, are spelled out in our Compact. Also addressed in the Compact and our Memorandum of Agreement with the local governments are issues related to construction of a freeway interchange on Interstate 84 adjacent to the Industrial Park and to traffic flows and street configuration in the area of the casino. Doing the work necessary to reach agreement on these issues, and to get us to the point we are today with detailed plans for a multi-level structure on a footprint of 270,000 square feet with underground parking, has required significant expenditure of tribal resources on landscape and building architects, highway and structural engineers, as well as other professionals. We have also had this work done, much of which is largely completed, so that we will be prepared to start construction as soon as we receive the final approvals from the Secretary of Interior on our Compact and on our land-to-trust application. In total, from the fall of 2002 through the end of 2005, the Tribe has spent approximately \$8 million on engineering, site development, design and architectural services related to the project.

Funding

We wish to emphasize that Warm Springs is paying for these efforts ourselves. Throughout the Tribe's nearly decade-long effort to address its worsening financial crisis through development of a casino on the Tribe's traditional lands along the Columbia River, the Tribe has utilized its own funds and resources. No management company or outside financial partner has been involved. As detailed above, since the Tribe settled on the Cascade Locks Industrial Park site, Warm Springs has expended about \$12.2 million in scarce tribal resources to pursue the Cascade Locks project to this point: \$4.2 million for IGRA and land-into-trust processes and \$8 million for architecture, engineering and design. To complete the environmental review, the two-part determination and the fee-to-trust process, including exercising our option to purchase the 25 acres, and to finish all other processes necessary to allow construction to begin, we expect to spend an additional \$9 million.

FAIRNESS

As described above, our Tribe, the Oregon Governor, Cascade Locks and many surrounding communities and jurisdictions have invested great amounts of time, energy and scarce resources in fully complying with established processes thus far. Moreover, and perhaps unique among tribes, Warm Springs has followed this costly and time-consuming process relying solely on our own funds in an effort to produce a model partnership between the Tribe, State and local communities. With so much time, effort and expense committed thus far by our local partners,

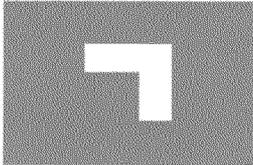
listing by the Office of Indian Gaming Management shows only thirteen tribes nationwide, including Warm Springs, as having actual applications for a two-part determination under review with the Interior Department.

Warm Springs, as an active participant in the current two-part determination process, is somewhat constrained in suggesting how the process might be changed. But providing more clarity and certainty for the process would certainly help. We note with approval the idea of the BIA issuing clear regulations for the existing process, which we understand the Bureau is currently proposing to do based on the Office of Indian Gaming Management's "checklist" for Section 20 after-acquired lands applications. Also, readily available explanatory materials and, where appropriate, meetings for the general public would be helpful, as shown by the recent Interior Department meetings to describe the process for the newly restored Cowlitz Tribe's application for gaming on an initial reservation under IGRA Section 20(b)(1)(B). Furthermore, as we have pointed out, we firmly believe that forging a partnership with the local community and the state's governor early on, before undertaking the land-to-trust and two-part determination processes, can be very beneficial, and even critical, in helping set forth with certainty and clarity what will actually happen on the ground, how impacts will be addressed and what benefits will accrue to the local community and to the state, before the principal parties engage those processes.

CLOSING

Mr. Chairman, we appreciate the opportunity to present and discuss our experiences with current off-reservation casino processes for a tribe with an established reservation. We are working hard to abide by the letter and spirit of these processes, including those for taking land into trust for gaming and the Secretarial two-part determination, and we believe they are generally working for us. They are difficult, time consuming, expensive, and final success is by no means assured. We have had our setbacks. But we understood heading in that there would be challenges, and are doing our best to fully address them. Accordingly, Mr. Chairman, while Congress considers changes to IGRA, we strongly urge your bill be revised to assure consistency and fairness in dealing with Indian tribes well along in established processes, such as ours. Last year we celebrated the 150th anniversary of the Treaty that moved our ancestors from the land along the Columbia River to our current Warm Springs Reservation. Although the history of relationships between the United States and Indian tribes has not always been smooth, the people of Warm Springs have sought to work cooperatively with our federal partners on the basis of mutual trust. We have done the same with our State and local government partners. Together over time, we have learned how to solve problems by establishing mutual agreements and playing by the rules. Now, as we have been diligently pursuing a model process under IGRA's current requirements, your IGRA legislation provides a modern opportunity for this Committee to reinforce those timeless values of reliability and fairness.

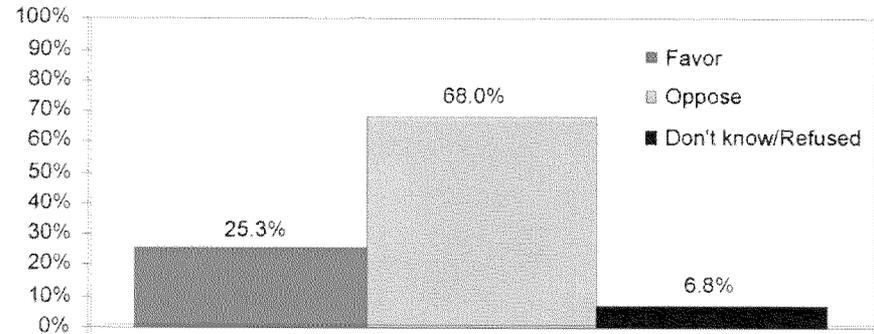
Thank you.



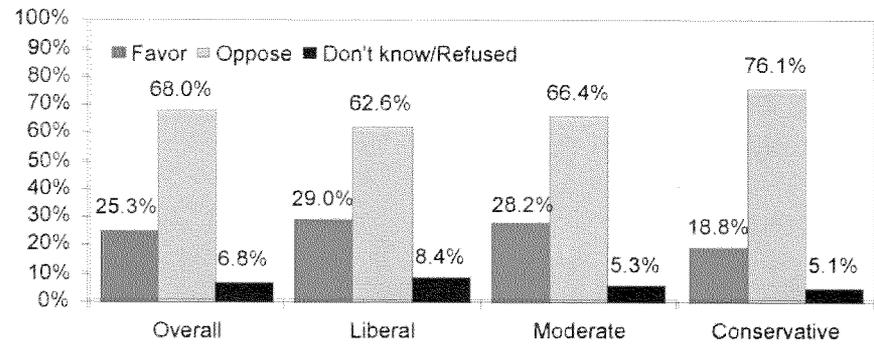
Columbia River Gorge:

- Conducted July 26, 2006
- N= 400 Likely Voters
- Margin Of Error: +/- 4.9%

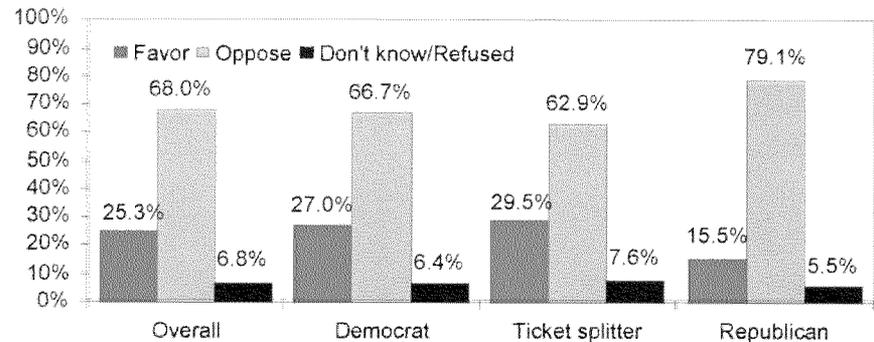
1 Do you favor or oppose allowing the Warm Springs Indian Tribe to build a 603,000 square-foot casino off reservation lands near the Columbia River Gorge community of Cascade Locks?

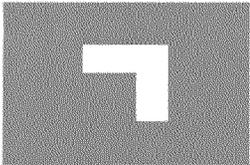


2 Favor/Oppose Casino By Voter Ideology



3 Favor/Oppose Casino By Vote Behavior

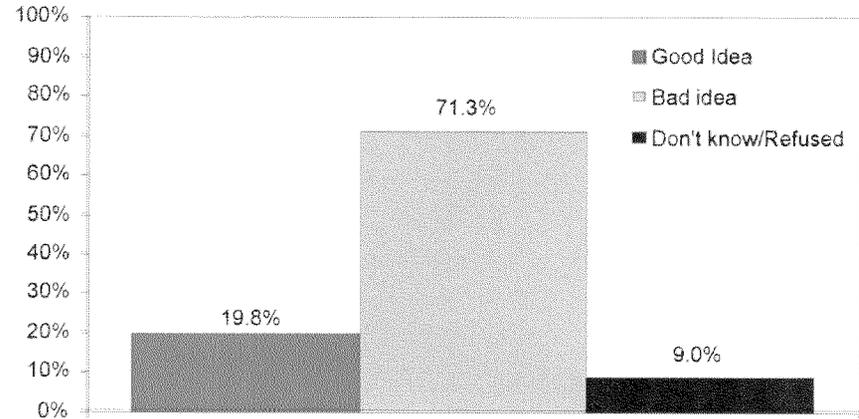




Gorge Messaging:

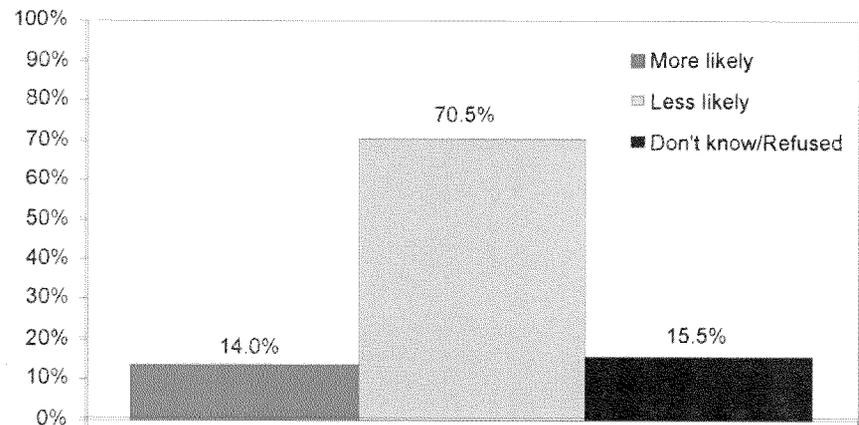


Closest to your opinion: A 603,000 square-foot casino located near Cascade Locks is a good idea because it will have very little impact on the Columbia River Gorge's air and water quality while creating jobs and bringing needed tax revenue to the area; *or*, a 603,000 square-foot casino near Cascade Locks is a bad idea because it will result in increased traffic and pollution—causing significant harm to the Columbia River Gorge's scenic beauty and fish and wildlife?



If you knew that the following statement was true, would you be much more likely, somewhat more likely, somewhat less likely or much less likely to favor allowing the Warm Springs Indian Tribe to build a 603,000 square-foot casino off reservation lands near the Columbia River Gorge community of Cascade Locks?

The proposed Columbia River Gorge casino would draw an estimated 3 million visitors and increase traffic and air pollution--putting the Gorge's bald eagle nests and salmon runs in danger.



- Presented By:
- Greg Strimple

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- www.mercurypublicaffairs.com



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

JUN 23 2006

Memorandum

To: Regional Director, Northwest Region

Through **ACTING** Director, Bureau of Indian Affairs *Jerry Gadsden*

From: Associate Deputy Secretary *James E. Larson*

Subject: Scoping Report for the March, 1, 2006, Draft Environmental Impact Statement for the Cascade Locks Resort and Casino Project

We have reviewed the above-named Scoping Report. Based on this review, we have concluded that the Purpose and Need identified in the Scoping Report requires further refinement, and that at least one additional alternative should be identified for analysis in the environmental impact statement. Therefore, I am directing the withdrawal of the Scoping Report for further revision by your Office.

Please proceed with the revision by issuing notice to the public and the parties that received copies of the Scoping Report stating that the document is being withdrawn so that internal Departmental revisions can be made. Issue this notice by the same means as the Scoping Report was issued, e.g. by publication in the local media and/or by direct mail. Please state in the notice that scoping has not been reopened, and that the Department is not seeking further comment on the Scoping Report. Please also state that copies of the revised Scoping Report will be made available.

Please expect further discussion of the revisions to the Scoping Report with the Office of Indian Gaming Management and the Solicitor's Office. If you have further questions, please contact Maria Wiseman, Division of Indian Affairs, Office of the Solicitor, at (202) 208-7227.

RECEIVED

JUL 11 2006

BUREAU OF INDIAN AFFAIRS
NORTHWEST REGIONAL OFFICE
OFFICE OF THE REGIONAL DIRECTOR

#.1

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 8-17-06

SUBJECT: Warm Springs Casino

AGENDA NUMBER OR TOPIC: ~~Not listed~~ B-1

FOR: _____ AGAINST: X THE ABOVE AGENDA ITEM

NAME: Patricia Anderson

ADDRESS: 23200 NE Sandy Blvd.

CITY/STATE/ZIP: Wood Village OR 97060

PHONE: _____ DAYS: 503/491-4784 EVES: Same

EMAIL: hideaway43@verizon.net FAX: _____

SPECIFIC ISSUE: Effects on community

WRITTEN TESTIMONY: Yes

IF YOU WISH TO ADDRESS THE BOARD:

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

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

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

TO: Multnomah County Commission
501 SE Hawthorne Blvd. Suite 600
Portland, OR 97214

FROM: Patricia Anderson
23200 NE Sandy Blvd. #43
Wood Village, OR 97060
503/491-4784
hideaway43@verizon.net

DATE: August 17, 2006

RE: **Warm Springs Tribe Request for Gambling Casino in the Columbia Gorge**

Madame Chair, Commissioners...

My name is Patricia Anderson and I live in Wood Village at the east end of the County. I am here today to thank you for sending letters to the Department of the Interior expressing your opposition to a mega-casino in the heart of the Columbia River Gorge, and to encourage you to continue to demonstrate your concern for this natural wonder.

Why do I care? I spend quite a bit of time in the Gorge hiking and enjoying the awesome beauty of this place. I drive on Interstate 84 three to four times a week. The road can barely handle the current traffic on week days and on weekends it looks like the Santa Monica Freeway. The added traffic going to the Casino would put an enormous stress on this road. And it would add to the pollution that impairs visibility 95% of the time. I know, because most days I can't even see Mt. Hood only a few miles from my home.

I fear the devastation to the roads and surrounding countryside. I worry about the demand on the infrastructure of a previously very sparsely populated rural area. And I know from experience the overwhelming need for social and emergency response services that a Casino could bring. I do not believe taking on this burden would be in the best interests of the County or its residents, especially those of us living in the gateway communities.

The Gorge is a natural wonder, a place to be protected and preserved for future generations. It is not the appropriate venue for a Casino. That would be tantamount to bringing Las Vegas to the Grand Canyon or Yellowstone. The Department of the Interior has asked the Warm Springs Tribe to consider an on-reservation Casino and I hope you will support them in that endeavor.

Thank you for the opportunity to testify today and thank you again for your support in opposing a Las Vegas-style casino in the heart of the Columbia River Gorge.

#2

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

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

MEETING DATE: 8-17-06

SUBJECT: Warm Springs Tribe Casino

AGENDA NUMBER OR TOPIC: (Not Listed) B-1

FOR: X AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Michael Lang

ADDRESS: 522 SW 5th Suite 720

CITY/STATE/ZIP: Portland OR 97204

PHONE: DAYS: (503) 241-3762

EVES: _____

EMAIL: _____

FAX: _____

SPECIFIC ISSUE: Thank the Commission for sending letters to the Dept of Interior opposing a Casino in the Gorge

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
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