

**ANNOTATED MINUTES**

Tuesday, January 4, 1994 - 9:00 AM - 9:30 AM  
Multnomah County Courthouse, Room 602

**EXECUTIVE SESSION**

Chair Beverly Stein convened the meeting at 9:05 a.m., with Vice-Chair Gary Hansen, Commissioners Sharron Kelley and Dan Saltzman present, and Commissioner Tanya Collier excused.

E-1        *The Multnomah County Board of Commissioners Will Meet in Executive Session Pursuant to ORS 192.660(1)(h) for Consultation with Legal Counsel Concerning Legal Rights and Duties Regarding Current Litigation.*

**FOLLOWING THE EXECUTIVE SESSION, THE BOARD CONVENED IN OPEN SESSION. CHAIR STEIN ANNOUNCED THAT COUNTY COUNSEL IS DIRECTED TO INTERVENE IN THE LEWIS VS. ERVIN BALLOT TITLE CHALLENGE ON THE COMMISSIONERS' BEHALF.**

*There being no further business, the meeting was adjourned at 9:30 a.m.*

OFFICE OF THE BOARD CLERK  
for MULTNOMAH COUNTY, OREGON

Deborah L. Bogstad  
Deborah L. Bogstad

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Tuesday, January 4, 1994 - 9:30 AM - 10:00 AM  
Multnomah County Courthouse, Room 602

**BOARD BRIEFING**

B-1        *Brentwood-Darlington Community Family Resource Center Update. Presented by Commissioner Tanya Collier.*

**PRESENTATION AND RESPONSE TO BOARD QUESTIONS BY COMMISSIONER COLLIER, MICHAEL HARRIS, SAM GALBREATH, BOB SCHULTZ, SALLY LUCERO, PATRICK JONES AND MARY ANN COLRUD.**

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Tuesday, January 4, 1994 - 10:00 AM & 1:30 PM  
Multnomah County Courthouse, Room 602

**WORK SESSIONS**

WS-1        *Program Measurements and Program Narrative for Management Support Services. Continued from December 21, 1993.*

WS-2      *Program Measurements and Program Narrative for Children and Families Services, Mental Health, Youth, and Family Services. Continued from December 21, 1993.*

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*Wednesday, January 5, 1994 - 1:30 PM - 4:00 PM  
Multnomah County Courthouse, Room 602*

**WORK SESSION**

WS-3      *Program Measurements and Program Narrative for the Health Department. Continued from December 21, 1993.*

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*Thursday, January 6, 1994 - 9:30 AM  
Multnomah County Courthouse, Room 602*

**REGULAR MEETING**

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

**REGULAR AGENDA**

**NON-DEPARTMENTAL**

R-1      *In the Matter of the Election of a Commissioner to the Vice-Chair Position for the Calendar Year 1994, Pursuant to Section 3.60 of the Multnomah County Home Rule Charter and Section 2(A) of Multnomah County Resolution 93-358 (Board Rules)*

**UPON MOTION OF COMMISSIONER SALTZMAN, SECONDED BY COMMISSIONER KELLEY, IT WAS UNANIMOUSLY APPROVED THAT COMMISSIONER TANYA COLLIER BE ELECTED VICE-CHAIR FOR 1994.**

**CONSENT CALENDAR**

**UPON MOTION OF COMMISSIONER HANSEN, SECONDED BY COMMISSIONER KELLEY, THE CONSENT CALENDAR, (ITEMS C-1 THROUGH C-11) WAS UNANIMOUSLY APPROVED.**

**JUVENILE JUSTICE DIVISION**

C-1      *Ratification of Amendment No. 1 to Intergovernmental Agreement Contract 100134 Between Multnomah County and Clackamas County, for the Continuance of Electronic Monitoring Services as an Alternative to Detention, Using \$6,500 of State CSD Funds, for the Period Upon Execution through June 30, 1994*

**DEPARTMENT OF HEALTH**

- C-2      *Ratification of Intergovernmental Agreement Contract 201184 Between Multnomah County and Clackamas County, Providing Telephone Triage Services for Clients of the Clackamas County Health Department, for the Period January 1, 1994 through December 31, 1994*
- C-3      *Ratification of Intergovernmental Agreement Contract 201234 Between the Port of Portland and Multnomah County, Providing Hepatitis B Vaccinations, Post-Exposure Evaluation and Follow-Up, for Willing Port Employees Coming in Contact with Blood or Body Fluids During Work, for the Period Upon Execution through December 1, 1994*

**CHILDREN AND FAMILIES SERVICES DIVISION**

- C-4      *Ratification of Intergovernmental Agreement Contract 100264-R Between Multnomah County and University Hospital, Providing Psychiatric, Psychological and Medical Evaluations and Outpatient Services for Child and Adolescent Mental Health Program-Partners Project Clients, for the Period July 1, 1993 through June 30, 1994*
- C-5      *Ratification of Amendment No. 1 to Intergovernmental Agreement Contract 100344 Between Multnomah County and Portland Public Schools, Adding \$22,387.28 to Pay for Partners Project Services Provided During the 92/93 Fiscal Year, for the Period July 1, 1993 through June 30, 1994*

**DEPARTMENT OF ENVIRONMENTAL SERVICES**

- C-6      *ORDER in the Matter of Contract 15762 for the Sale of Certain Real Property to Barbara Alatorre*

**ORDER 94-1.**

- C-7      *ORDER in the Matter of the Execution of Deed D940972 for Certain Tax Acquired Property to George Christian*

**ORDER 94-2.**

- C-8      *ORDER in the Matter of the Execution of Deed D940974 Upon Complete Performance of a Contract to the Estate of Rose Calcagno, Ambrose Calcagno, Jr., Personal Representative*

**ORDER 94-3.**

- C-9      *ORDER in the Matter of the Execution of Deed D940975 Upon Complete Performance of a Contract to John F. Hart and Ora L. Hart*

**ORDER 94-4.**

- C-10     *ORDER in the Matter of the Execution of Deed D940976 Upon Complete*

**ORDER 94-5.**

- C-11 *ORDER in the Matter of the Execution of Deed D940977 for Certain Tax Acquired Property to Chilos Mathews*

**ORDER 94-6.**

**REGULAR AGENDA**

**NON-DEPARTMENTAL**

- R-2 *Citizens' Steering Committee Report on Non-Voted Resolutions of the 1992 Citizens Convention, and Recommendations for Board Action. Presented by Kay Durtschi.*

**PRESENTATION AND RESPONSE TO BOARD QUESTIONS AND COMMENTS BY KAY DURTSCHI. THE BOARD ACKNOWLEDGED THE EFFORTS OF JOHN LEGRY AND ANGEL OLSON. CHAIR STEIN TO BRING RESOLUTIONS 93-79 AND 93-80 BACK BEFORE THE BOARD TO SEE IF ALL RECOMMENDATIONS HAVE BEEN IMPLEMENTED.**

- R-3 *ORDER in the Matter of Designation of Newspapers of General Circulation in the County for Required Election Publications*

**UPON MOTION OF COMMISSIONER HANSEN, SECONDED BY COMMISSIONER KELLEY, ORDER 94-7 WAS UNANIMOUSLY APPROVED, DESIGNATING THE OREGONIAN, THE GRESHAM OUTLOOK AND THE SKANNER FOR REQUIRED ELECTION PUBLICATIONS.**

- R-5 *Second Reading and Possible Adoption of a Proposed ORDINANCE Amending MCC 2.60.310 and MCC 2.60.315 Relating to the Investment Advisory Board by Increasing the Membership and Increasing the Meetings*

**PROPOSED ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER KELLEY MOVED AND COMMISSIONER COLLIER SECONDED, APPROVAL OF THE SECOND READING AND ADOPTION. HEARING HELD, NO ONE WISHED TO TESTIFY. ORDINANCE 782 UNANIMOUSLY APPROVED.**

**CHILDREN AND FAMILIES SERVICES DIVISION**

- R-6 *Ratification of Intergovernmental Agreement Contract 104354 Between Multnomah County and the City of Portland, Office of Neighborhood Associations, Neighborhood Mediation Center, to Develop and Implement a Landlord-Tenant Mediation Program in Conjunction with the Family and Community Partnership*

**COMMISSIONER KELLEY MOVED AND COMMISSIONER COLLIER SECONDED, APPROVAL OF R-6. JOHN PEARSON EXPLANATION.**

*Commissioner Hansen left at 9:45 a.m.*

**COMMISSIONER KELLEY COMMENTS IN SUPPORT. AGREEMENT APPROVED WITH COMMISSIONERS KELLEY, COLLIER, SALTZMAN AND STEIN VOTING AYE.**

**SHERIFF'S OFFICE**

R-7        *RESOLUTION in the Matter of a Housing Allowance for Chaplains Serving the County Jails*

**LARRY AAB EXPLANATION. COMMISSIONER SALTZMAN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-7. MR. AAB RESPONSE TO BOARD QUESTIONS. RESOLUTION 94-8 APPROVED WITH COMMISSIONERS KELLEY, COLLIER, SALTZMAN AND STEIN VOTING AYE.**

**DEPARTMENT OF ENVIRONMENTAL SERVICES**

R-8        *ORDER in the Matter of Designating Property Acquired Through Foreclosure of Delinquent Taxes for Use as the Brentwood-Darlington Community Family Resource Center*

**COMMISSIONER COLLIER MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-8. PATRICK JONES EXPLANATION AND RESPONSE TO BOARD QUESTIONS.**

*Commissioner Hansen returned at 10:52 a.m.*

**ORDER 94-9 UNANIMOUSLY APPROVED.**

**NON-DEPARTMENTAL**

R-4        *Budget Modification NOND #11 Requesting Authorization to Reorganize Staffing in the Planning and Budget Division, and to Transfer Salary Savings to Materials and Services to Cover Costs of Program/Performance Budgeting*

**BILL FARVER AND DAVE WARREN PRESENTATION AND RESPONSE TO BOARD QUESTIONS. BOARD COMMENTS IN APPRECIATION OF THE EFFORTS OF MR. WARREN. BUDGET MODIFICATION UNANIMOUSLY APPROVED.**

**PUBLIC COMMENT**

R-9            *Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.*

**COMMISSIONER SALTZMAN REPORTED HE WILL BE SPONSORING A TOWN HALL MEETING WITH CITY COMMISSIONER CHARLIE HALES AND METRO PRESIDING OFFICER JUDY WYERS TO DISCUSS PARKS AT 7:00 P.M. ON TUESDAY, JANUARY 11, 1994, AT WESTMORELANDS UNION MANOR, 6404 SE 23RD.**

*There being no further business, the meeting was adjourned at 10:10 a.m*

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

  
\_\_\_\_\_  
*Deborah L. Bogstad*



# MULTNOMAH COUNTY OREGON

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

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

## AGENDA

### MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS

#### FOR THE WEEK OF

#### JANUARY 3, 1994 - JANUARY 7, 1994

- Tuesday, January 4, 1994 - 9:30 AM - 10:00 AM Board Briefing . . . . .Page 2*
- Tuesday, January 4, 1994 - 10:00 AM - 12:00 PM Work Session. . . . .Page 2*
- Tuesday, January 4, 1994 - 1:30 PM - 3:30 PM Work Session. . . . .Page 2*
- Wednesday, January 5, 1994 - 1:30 PM - 4:00 PM Work Session. . . . .Page 2*
- Thursday, January 6, 1994 - 9:30 AM - Regular Meeting . . . . .Page 3*

*Thursday Meetings of the Multnomah County Board of Commissioners are taped and can be seen at the following times:*

- Thursday, 10:00 PM, Channel 11 for East and West side subscribers*
- Thursday, 10:00 PM, Channel 49 for Columbia Cable (Vancouver) subscribers*
- Friday, 6:00 PM, Channel 22 for Paragon Cable (Multnomah East) subscribers*
- Saturday 12:00 Noon, Channel 21 for East Portland and East County subscribers*

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

Tuesday, January 4, 1994 - 9:30 AM - 10:00 AM

Multnomah County Courthouse, Room 602

**BOARD BRIEFING**

B-1 Brentwood-Darlington Community Family Resource Center Update. Presented by Commissioner Tanya Collier. 30 MINUTES REQUESTED.

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Tuesday, January 4, 1994 - 10:00 AM & 1:30 PM

Multnomah County Courthouse, Room 602

**WORK SESSIONS**

WS-1 Program Measurements and Program Narrative for Management Support Services. Continued from December 21, 1993. 10:00 AM TIME CERTAIN, 2 HOURS REQUESTED.

WS-2 Program Measurements and Program Narrative for Children and Families Services, Mental Health, Youth, and Family Services. Continued from December 21, 1993. 1:30 PM TIME CERTAIN, 2 HOURS REQUESTED.

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Wednesday, January 5, 1994 - 1:30 PM - 4:00 PM

Multnomah County Courthouse, Room 602

**WORK SESSION**

WS-3 Program Measurements and Program Narrative for the Health Department. Continued from December 21, 1993. 1:30 PM TIME CERTAIN, 2-1/2 HOURS REQUESTED.

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Thursday, January 6, 1994 - 9:30 AM

Multnomah County Courthouse, Room 602

**REGULAR MEETING**

**REGULAR AGENDA**

**NON-DEPARTMENTAL**

- R-1 *In the Matter of the Election of a Commissioner to the Vice-Chair Position for the Calendar Year 1994, Pursuant to Section 3.60 of the Multnomah County Home Rule Charter and Section 2(A) of Multnomah County Resolution 93-358 (Board Rules) Section*

**CONSENT CALENDAR**

**JUVENILE JUSTICE DIVISION**

- C-1 *Ratification of Amendment No. 1 to Intergovernmental Agreement Contract 100134 Between Multnomah County and Clackamas County, for the Continuance of Electronic Monitoring Services as an Alternative to Detention, Using \$6,500 of State CSD Funds, for the Period Upon Execution through June 30, 1994*

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*for Partners Project Services Provided During the 92/93 Fiscal Year, for the Period July 1, 1993 through June 30, 1994*

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- C-11 *ORDER in the Matter of the Execution of Deed D940977 for Certain Tax Acquired Property to Chilos Mathews*

**REGULAR AGENDA**

**NON-DEPARTMENTAL**

- R-2 *Citizens' Steering Committee Report on Non-Voted Resolutions of the 1992 Citizens Convention, and Recommendations for Board Action. Presented by Kay Durtschi. 9:30 AM TIME CERTAIN, 20 MINUTES REQUESTED.*
- R-3 *ORDER in the Matter of Designation of Newspapers of General Circulation in the County for Required Election Publications*
- R-4 *Budget Modification NOND #11 Requesting Authorization to Reorganize Staffing in the Planning and Budget Division, and to Transfer Salary Savings to Materials and Services to Cover Costs of Program/Performance Budgeting*
- R-5 *Second Reading and Possible Adoption of a Proposed ORDINANCE Amending MCC 2.60.310 and MCC 2.60.315 Relating to the Investment Advisory Board by Increasing the Membership and Increasing the Meetings*

**CHILDREN AND FAMILIES SERVICES DIVISION**

- R-6 *Ratification of Intergovernmental Agreement Contract 104354 Between Multnomah County and the City of Portland, Office of Neighborhood Associations, Neighborhood*

*Mediation Center, to Develop and Implement a Landlord-Tenant Mediation Program in Conjunction with the Family and Community Partnership Project Participants, for the Period Upon Execution through June 30, 1994*

**SHERIFF'S OFFICE**

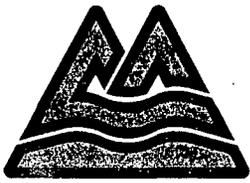
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**DEPARTMENT OF ENVIRONMENTAL SERVICES**

R-8      *ORDER in the Matter of Designating Property Acquired Through Foreclosure of Delinquent Taxes for Use as the Brentwood-Darlington Community Family Resource Center*

**PUBLIC COMMENT**

R-9      *Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.*



# MULTNOMAH COUNTY OREGON

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

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR • 248-3308  
DAN SALTZMAN • DISTRICT 1 • 248-5220  
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SHARRON KELLEY • DISTRICT 4 • 248-5213  
CLERK'S OFFICE • 248-3277 • 248-5222

## *SUPPLEMENTAL AGENDA*

*Tuesday, January 4, 1994 - 9:00 AM - 9:30 AM*

*Multnomah County Courthouse, Room 602*

### *EXECUTIVE SESSION*

*E-1 The Multnomah County Board of Commissioners Will Meet in Executive Session Pursuant to ORS 192.660(1)(h) for Consultation with Legal Counsel Concerning Legal Rights and Duties Regarding Current Litigation.*

TANYA COLLIER  
Multnomah County Commissioner  
District 3



1120 SW Fifth St, Suite 1500  
Portland, OR 97204  
(503) 248-5217

M E M O R A N D U M

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TO: Board Clerks  
Chair, Beverly Stein  
Commissioner Gary Hansen  
Commissioner Sharron Kelley  
Commissioner Dan Saltzman

FROM: Commissioner Tanya Collier

DATE: January 3, 1994

SUBJECT: Schedule conflict for Executive Session

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Please excuse me from the Executive Session scheduled for 9:00 a.m. on Tuesday, January 4, 1994. I have a previous engagement that I am unable to change.

I will be arriving at 9:30 a.m. for our regularly scheduled meeting.

Thank you.

TC:sf

BOARD OF  
COUNTY COMMISSIONERS  
1994 JAN - 3 AM 11:55  
MULTNOMAH COUNTY  
OREGON

MEETING DATE: January 4, 1994

AGENDA NO: E-1

(Above Space for Board Clerk's Use ONLY)

**AGENDA PLACEMENT FORM**

SUBJECT: Executive Session Pursuant to ORS 192.660(1)(h)

BOARD BRIEFING Date Requested: 9:00 am TC - January 4, 1994

Amount of Time Needed: 30 minutes

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

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

DEPARTMENT: Non-Departmental DIVISION: County Counsel

CONTACT: Laurence Kressel TELEPHONE #: 248-3138  
BLDG/ROOM #: 106/1530

PERSON(S) MAKING PRESENTATION: Laurence Kressel

**ACTION REQUESTED:**

INFORMATIONAL ONLY     POLICY DIRECTION     APPROVAL     OTHER

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

Executive Session Pursuant to ORS 192.660(1)(h) for Consultation with Legal Counsel Concerning Legal Rights and Duties Regarding Current Litigation.

BOARD OF COUNTY COMMISSIONERS  
MULTNOMAH COUNTY  
OREGON  
1993 DEC 30 PM 12:44

**SIGNATURES REQUIRED:**

ELECTED OFFICIAL: Beverly Stein

OR

DEPARTMENT MANAGER: \_\_\_\_\_

**ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES**

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



MICHAEL D. SCHRUNK, District Attorney for Multnomah County  
600 County Courthouse • Portland, Oregon 97204 • (503) 248-3162

December 27, 1993

Vicki K. Ervin  
Director of Elections  
Multnomah County Oregon  
1040 S. E. Morrison St.  
Portland, OR 97214-2495

Re: Ballot Title for Initiative Petition by  
Paul deParrie (Regarding Laws Affecting  
Minority Status for Homosexuals or Based  
Upon Sexual Orientation or Sexual  
Preference.)

Dear Ms. Ervin:

Pursuant to Multnomah County Code (MCC) Section  
4.10.530, I hereby certify the following Ballot Title and  
Explanatory Statement for the initiative petition  
proposed by Chief Petitioner Paul deParrie (copy  
attached).

BALLOT TITLE

**CAPTION: BANS COUNTY LAWS, POLICIES THAT WOULD  
PROTECT HOMOSEXUALS FROM DISCRIMINATION.**

**QUESTION: Shall county be prohibited from adopting,  
enforcing laws or policies that would protect persons  
from discrimination based on sexual orientation?**

**SUMMARY: Amends County Code. Prohibits County from  
adopting or enforcing laws or policies that grant  
protected status based on homosexuality, sexual  
orientation or sexual preference. Prohibits County  
spending promoting or approving homosexuality. Allows  
provisions prohibiting employment decisions based upon  
non-employment-related factors. Does not deny County  
services based on lawful sexual practices. Does not  
forbid public library materials for adults. Does not  
nullify civil rights based on race, religion, color, sex,  
marital status, familial status, national origin, age or  
disability. Does not limit constitutional rights.**

Vicki K. Ervin  
December 27, 1993  
Page 2

**EXPLANATORY STATEMENT:**

This ordinance would enact a new Chapter 12 of the County Code. (It does not amend the County Charter). It bans any directive (by ordinance, rule, regulation, resolution or policy) which extends minority status or establishes affirmative action, quotas, special class status or recognition based upon homosexuality, sexual orientation or sexual preference. This would bar any present or future policies specifically restricting or prohibiting discrimination on the grounds of homosexuality, sexual orientation or sexual preference (subject to amendment by future law-makers, as explained below).

County funds cannot be used to promote homosexuality or to express approval of homosexual behavior under this ordinance.

This measure states that it shall not be interpreted to deny any county service, license or approval based upon actual or perceived private lawful sexual practices; nor does it limit public library materials regarding homosexuality provided to adults; nor does it nullify any existing city, state or federal civil rights protection or constitutional rights guaranteed by the Oregon or United States Constitution (such as protection against discrimination based upon race, religion, color, sex, marital status, familial status, national origin, age, or disability). It does not prohibit future (or present) employment laws or policies which require that employment decisions be based upon only job-related factors. Personal expression regarding private lawful sexual behavior could not be made a job-related factor in future provisions regarding county employment or advancement, unless such action disrupts the work place (and also subject to the action of future law-makers, as explained in the next paragraph).

Because this initiative ordinance is subject to amendment by county ordinance (or by another initiative ordinance) at any time, it would not bar new legislation

Vicki K. Ervin  
December 27, 1993  
Page 23

by the County Board (or the voters) inconsistent with this initiative ordinance. Therefore, this ordinance's attempt to prohibit such future legislation would be only addressed to the discretion of future law-makers and would not be binding upon their legislative powers.

[END OF BALLOT TITLE]

Very truly yours,

/s/

MICHAEL D. SCHRUNK  
District Attorney  
Multnomah County, Oregon

MDS:an  
Attachment: Copy of Petition.  
cc: Paul deParrie  
4211 S.E. 39th Avenue  
Portland, OR 97202  
(W/copy of Initiative Petition)

## GENERAL PROVISIONS

**250.005 Definitions.** As used in this chapter:

(1) "County clerk" means the county clerk or the county official in charge of elections.

(2) "Elector" means an individual qualified to vote under section 2, Article II, Oregon Constitution.

(3) "Measure" includes any of the following submitted to the people for their approval or rejection at an election:

(a) A proposed law.

(b) An Act or part of an Act of the Legislative Assembly.

(c) A revision of or amendment to the Oregon Constitution.

(d) Local, special or municipal legislation.

(e) A proposition or question.

(4) "Prospective petition" means the information, except signatures and other identification of petition signers, required to be contained in a completed petition. [1979 c.190 §140; 1983 c.392 §3]

**250.010** [Amended by 1957 c.608 §120; repealed by 1979 c.190 §431]

**250.015 Form of petition; numbering of signature sheets.** The Secretary of State by rule shall:

(1) Design the form of the prospective petition, and the initiative and the referendum petition, including the signature sheets, to be used in any initiative or referendum in this state.

(2) Designate the quality of paper to be used for signature sheets in order to assure the legibility of the signatures.

(3) Prescribe by rule a system for numbering the signature sheets to be used in any initiative or referendum in this state. [1979 c.190 §141; 1979 c.345 §1; 1981 c.909 §1; 1989 c.68 §5]

**250.020** [Amended by 1957 c.608 §121; 1961 c.121 §4; 1979 c.190 §232; 1979 c.519 §17; renumbered 254.085]

**250.025 Qualifications for signers of petition; removal of signatures.** (1) Any elector may sign an initiative or referendum petition for any measure on which the elector is entitled to vote.

(2) After an initiative or referendum petition is submitted for signature verification, no elector who signed the petition may remove the signature of the elector from the petition. [Formerly 254.160; 1985 c.808 §24]

**250.030** [Amended by 1957 c.608 §122; 1961 c.121 §5; 1979 c.190 §233; 1979 c.317 §8a; 1979 c.519 §18a; renumbered 254.095]

**250.035 Form of ballot title.** (1) The ballot title of any measure to be initiated or referred shall consist of:

(a) A caption of not more than 10 words which reasonably identifies the subject of the measure;

(b) A question of not more than 20 words which plainly phrases the chief purpose of the measure so that an affirmative response to the question corresponds to an affirmative vote on the measure; and

(c) A concise and impartial statement of not more than 85 words summarizing the measure and its major effect.

(2) The ballot title shall not resemble, so far as probably to create confusion, any title previously filed for a measure to be submitted at that election. [1979 c.190 §143; 1979 c.675 §1; 1985 c.405 §1; 1987 c.556 §1; 1987 c.875 §1]

Note: Section 11, chapter 396, Oregon Laws 1991, provides:

**Sec. 11. Form of ballot title for measure proposing new or increased tax before January 1, 1994.** (1) As used in this section, "unit of local government" has the meaning given the term in section 3 of this 1991 Act [310.181].

(2) Notwithstanding ORS 250.035, the ballot explanation for a measure proposing a new or increased tax shall contain a statement that indicates whether or not, pursuant to section 11b, Article XI, Oregon Constitution, and implementing legislation, the proposed tax measure would reduce property tax collections for other units of local government. The statement shall not be considered a part of the ballot explanation for purposes of determining if the explanation exceeds the 85-word limitation of ORS 250.035.

(3) This section applies to measures submitted to the electors for approval or rejection at an election held on or after the September 29, 1991, and before January 1, 1994. [1991 c.396 §11]

**250.037 Form of ballot title for measure requesting approval of certain bonds.**

(1) The ballot title of any measure requesting elector approval of bonds, the principal and interest on which will be payable from taxes imposed on property or property ownership that are not subject to the limitations of section 11b, Article XI of the Oregon Constitution, shall contain, in addition to the matters required by ORS 250.035, the following statement immediately after the ballot title question and appearing with it, in this manner:

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Question: (herein the question is stated) If the bonds are approved, they will be payable from taxes on property or property ownership that are not subject to the limits of section 11b, Article XI of the Oregon Constitution.

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(2) The words of the statement required by subsection (1) of this section shall not be



CIRCUIT COURT OF OREGON  
FOURTH JUDICIAL DISTRICT  
MULTNOMAH COUNTY COURTHOUSE  
1021 S.W. 4TH AVENUE  
PORTLAND, OREGON 97204

PHILLIP J. ROTH  
JUDGE

ROOM 538  
(503) 241-3181

May 11, 1993

James R. Jennings  
Attorney at Law  
101 NE Roberts  
Gresham, Oregon 97030

Christopher P. Thomas  
Attorney at Law  
Suite 400  
2000 SW First  
Portland, Oregon 97201

RE: Kay Foetisch, et al v. City of Troutdale  
Case No. A9302-00750

Gentlemen:

I have considered your arguments on the above-referenced case and have attached the ballot title which is to be certified to the City of Troutdale's elections officer.

Generally speaking, I find myself in agreement with my judicial colleague in Pendleton that the word "discrimination" must be in the ballot title. While the word is not mentioned anywhere in the proposed measure, it is abundantly clear to this Court that its subject includes the topic of discrimination in that the measure would ban laws that prevent discrimination against gay persons. I do not feel that the use of the word "discrimination" in this context is speculative, nor would the banning of anti-discrimination laws be a secondary effect of this measure. It is the primary effect of the measure. In addition, I do not find that the use of the word is particularly inflammatory. It is no more inflammatory than the term "minority status."

Regarding the caption and the question, I rule that they both should contain the word "discrimination." The Petitioner's

May 11, 1993

Page 2

proposed captions and questions, however, are too confusing. The use of the words "bans" and "halt" in the same sentence creates a double negative effect that would, in my mind, confuse the voters. I believe that my caption and question alleviates this potential confusion.

Regarding the summary, I feel that a large portion of the City's summary is unacceptable. While the first three sentences are appropriate, most of the following sentences state all the things that the measure "does not" do. This is inappropriate under ORS 250.035 in that it does not summarize the measure and its effect, but summarizes what its effects will not be. In addition, some of the "does not" provisions are misleading. For example, the City's assertion that the ballot measure "does not limit public library materials for adults" is at odds with the prohibition against spending to promote homosexuality. I therefore removed all the "does not" sentences from the summary.

Much of the alternative language in the Petitioner's proposed ballot title appears to speculate as to the measure's potential effect, and those sentences should not be included. The statements regarding hate crimes and book banning certainly fall into this category. The sentence regarding employment factors, however, is different in that it refers to important language in the measure that, interestingly enough, is unmentioned in the City's ballot title. I replaced the City's statement on this issue with the Petitioner's alternative found in Exhibit D of their memo because it correctly states an actual effect of the measure.

Regarding the "Flesch Test," I agree with the City in that the use of the words necessary to convey the subject matter of the measure would adversely affect the Flesch formula. I therefore rule that the Court's ballot title is to be used regardless of what "Flesch" score it achieves.

Sincerely,



PHILLIP J. ROTH  
CIRCUIT COURT JUDGE

PJR/bb  
Enclosure

CAPTION: Bans city laws that would protect homosexuals from discrimination.

QUESTION: Shall City be prohibited from adopting or enforcing laws that would protect persons from discrimination based on their sexual preference?

SUMMARY: Amends city charter. Prohibits City from adopting or enforcing laws that grant minority status based on homosexuality, sexual orientation or sexual preference. Prohibits City from spending to promote or approve homosexuality. Allows sexual orientation to be an employment factor if its disclosure disrupts the workplace.

will be added, after the "Governments cannot" phrase, the following item: "— deny constitutional rights, services due to existing statutes." The last paragraph of the ballot title is rewritten to provide: "Measure nonetheless allows adult library books addressing homosexuality with adult-only access. Public employees' private lawful sexual behaviors may be cause for personnel action, if those behaviors disrupt workplace."

### CONCLUSION

The following ballot title is certified for the proposed initiative measure:

**AMENDS CONSTITUTION:  
GOVERNMENTS CANNOT APPROVE,  
CREATE CLASSIFICATIONS BASED ON,  
HOMOSEXUALITY**

**QUESTION:** Shall constitution bar governments from creating classifications based on homosexuality or spending public funds in manner expressing approval of homosexuality?

**SUMMARY:** Amends state Constitution. Governments cannot:

- create classifications based on homosexuality;
- advise or teach children, students, employees that homosexuality equates legally or socially with race, other protected classifications;
- spend public funds in manner promoting or expressing approval of homosexuality;
- grant spousal benefits, marital status based on homosexuality;
- deny constitutional rights, services due under existing statutes.

Measure nonetheless allows adult library books addressing homosexuality with adult-only access. Public employees' private lawful sexual behaviors may be cause for personnel action, if those behaviors disrupt workplace.

Ballot title certified as modified. This decision shall become effective pursuant to ORAP 11.30(10).

IN THE SUPREME COURT OF THE  
STATE OF OREGON

STATE OF OREGON,  
*Petitioner on Review,*

v.

BART DALE WACKER,  
*Respondent on Review.*

(CC C8904498CR; CA A62171; SC S39421)

In Banc

On review from the Court of Appeals.\*

Argued and submitted March 2, 1993.

Rives Kistler, Assistant Attorney General, Salem, argued the cause for petitioner on review. With him on the petition were Charles S. Crookham, Attorney General, and Virginia L. Linder, Solicitor General, Salem.

Peter Gartlan, Deputy Public Defender, Salem, argued the cause for respondent on review. With him on the response was Sally L. Avera, Public Defender, Salem.

Thomas J. Crabtree, of Crabtree & Rahmsdorff, Defense Services, Inc., Bend, filed a brief for *amicus curiae* Oregon Criminal Defense Lawyers Association.

VAN HOOMISSEN, J.

The decision of the Court of Appeals is reversed. The order of the circuit court suppressing the evidence is reversed. The case is remanded to the circuit court for further proceedings.

Fadeley, J., filed a specially concurring opinion.

The words “[allows laws that deny homosexuals rights” do not substantially comply with ORS 250.035(1) for the reasons set forth above. We also can fold into one statement the concepts that are contained in the first six lines of the Attorney General’s title and thereby include more of the salient provisions of the measure in the Summary. We adopt this Summary:

**SUMMARY:** Amends constitution. Declares homosexuality wrongful sexual behavior. Governments cannot:

- Establish homosexuality as legally protected status;
- Advise or teach children, students, employees that homosexuality equates legally or socially with race, other protected classifications;
- spend public funds to promote, express approval of homosexuality.

With access limited to adults, public libraries can have adult books about homosexuality. Provided workplace is not disrupted, public employees’ lawful sexual behaviors are not considered work related. Governments nonetheless cannot deny constitutional rights, permits or services due under constitution, existing statutes. Other provisions.

ORS 250.035(2) states:

“The ballot title shall not resemble, so far as probably to create confusion, any title previously filed for a measure to be submitted at that election.”

Because of that statute, we note a similar initiative measure, involved in *Mabon v. Keisling*, 317 Or 406, 856 P2d 1023 (1993). That measure is identical to the measure before us, except for sections (1), (4), and (5) of this measure, which are new. In *Mabon*, we revised the ballot title. Because of the similarities in the measures, the ballot title that we approve here necessarily has some similarities to the ballot title approved in *Mabon*. But the differences in the two ballot titles are sufficient to avoid confusion between the two measures.

We certify the following ballot title for the proposed initiative measure:

AMENDS CONSTITUTION.  
DECLARES HOMOSEXUALITY WRONGFUL.  
FORBIDS HOMOSEXUALITY  
AS PROTECTED STATUS.

**QUESTION:** Shall constitution declare homosexuality wrongful sexual behavior, forbid laws establishing homosexuality as protected status, prohibit public spending promoting, approving homosexuality?

**SUMMARY:** Amends constitution. Declares homosexuality wrongful sexual behavior. Governments cannot:

- Establish homosexuality as legally protected status;
- Advise or teach children, students, employees that homosexuality equates legally or socially with race, other protected classifications;
- spend public funds to promote, express approval of homosexuality.

With access limited to adults, public libraries can have adult books about homosexuality. Provided workplace is not disrupted, public employees’ lawful sexual behaviors are not considered work related. Governments nonetheless cannot deny constitutional rights, permits or services due under constitution, existing statutes. Other provisions.

Ballot title certified as modified. This decision shall become effective pursuant to ORAP 11.30(10).

protect" must be deleted, leaving in place the description of the effects announced by the measure's language. This change serves the rule that we do not predict or speculate about potential applied interpretations of a measure before the history of its adoption is complete. See *Kane v. Roberts, supra*; *Oregon Citizens Alliance v. Roberts, supra*.

Another petition for review of the ballot title urges that the purpose and effect of the measure — both in its prohibitory aspect and in its aspect imposing requirements on government — is to require governmental discrimination against persons who may fall within the terms of the initiative. Those petitioners extend that argument to include the proposition that the measure would indirectly repeal the protections provided by Article I, section 20,<sup>4</sup> of the Oregon Constitution, insofar as it relates to the subject of the initiative measure. Specifically, those petitioners assert that "the proposed amendment would eliminate the existing state constitutional guarantee of freedom from governmental discrimination on the basis of sexual orientation."

The words of the measure make no reference to Article I, section 20. Petitioners do not cite any case expressly holding that there is (or is not) such an applicable guarantee. To evaluate their argument would require this court to hold that Article I, section 20, is impacted. We decline to engage in an abstract exercise to interpret a separate section of the state constitution in order to evaluate whether the measure before us for ballot title review, or legislation that might be adopted in the future to implement it, would adversely impact that separate constitutional provision. See *Kane v. Roberts, supra*; *Oregon Citizen's Alliance v. Roberts, supra*.

### CONCLUSION

The following ballot title is certified for use with the initiative measure:

**CAPTION:** Amends Constitution: Government cannot facilitate, must discourage homosexuality, other "behaviors."

<sup>4</sup> Article I, section 20, of the Oregon Constitution provides:

"No law shall be passed granting to any citizen or class of citizens privileges, or immunities, which upon the same terms shall be granted to all."

**QUESTION:** Shall constitution be amended to require that all governments discourage homosexuality, other listed "behaviors," and not facilitate or recognize them?

**SUMMARY:** Amends Oregon Constitution. All governments in Oregon may not use their monies or properties to promote, encourage or facilitate homosexuality, pedophilia, sadism, or masochism. All levels of government, including public education systems, must assist in setting a standard for Oregon's youth which recognizes that these "behaviors" are "abnormal, wrong, unnatural and perverse" and that they are to be discouraged and avoided. State may not recognize this conduct under "sexual orientation" or "sexual preference" labels, or through "quotas, minority status, affirmative action, or similar concepts."

Ballot title certified as modified.

**VAN HOOMISSEN, J.**, dissenting.

In my view, the certified ballot title substantially complies with the requirements of ORS 250.035<sup>1</sup> and, therefore, I would approve it. ORS 250.085(4).<sup>2</sup>

Even if we do not believe that a certified ballot title is the best of all possible ballot titles, this court must approve a certified ballot title that substantially complies with the statutory standards. *Ransom v. Roberts*, 309 Or 654, 659, 791 P2d 489 (1990). We are not empowered to change a certified ballot title merely because we are of the opinion that we can write a "better" one. *Priestley v. Paulus*, 287 Or 141, 145, 597 P2d 829 (1979); *Allison v. Paulus*, 280 Or 197, 199, 570 P2d 368 (1977).

<sup>1</sup> ORS 250.035(1) provides:

"The ballot title of any measure to be initiated or referred shall consist of:

"(a) A caption of not more than 10 words which reasonably identifies the subject of the measure;

"(b) A question of not more than 20 words which plainly phrases the chief purpose of the measure so that an affirmative response to the question corresponds to an affirmative vote on the measure; and

"(c) A concise and impartial statement of not more than 85 words summarizing the measure and its major effect."

<sup>2</sup> ORS 250.085(4) provides:

"The court shall review the title for substantial compliance with the requirements of ORS 250.035 and 250.039, and shall certify a title meeting this

Both the proponents and the opponents of the measure argue in this court that the Attorney General's Caption fails reasonably to identify the subject of the measure.<sup>2</sup> We agree. The Attorney General's Caption is so general as to be meaningless. The Attorney General's words, "certain conduct," could refer to driving while intoxicated, smoking cigarettes, or owning "pit bull" terriers, for all the Attorney General's Caption communicates. Thus, the Attorney General's Caption does not substantially comply with ORS 250.035(1)(a), because it fails reasonably to identify the subject of the measure. Accordingly, we modify the Caption to identify the subject of the measure, *i.e.*, homosexuality and other listed behaviors. We substitute this Caption:

AMENDS CONSTITUTION:  
FORBIDS GOVERNMENT FROM CONDONING  
HOMOSEXUALITY, OTHER LISTED BEHAVIORS

#### QUESTION AND SUMMARY

We have considered petitioners' arguments concerning the Attorney General's Question and Summary. We conclude that both substantially comply with the statutory requirements. ORS 250.035(1)(b), (c); ORS 250.085(4).

#### CONCLUSION

Pursuant to ORS 250.085(4), we certify to the Secretary of State the following ballot title:

<sup>2</sup> Petitioners have proposed the following alternative Captions:

Petitioner Baker:

"AMENDS CONSTITUTION:  
HOMOSEXUALITY DECLARED ABNORMAL;  
DENIES GOVERNMENT BENEFITS"

Petitioners Gernant and Remington:

"AMENDS CONSTITUTION:  
REQUIRES DISCRIMINATION AGAINST  
HOMOSEXUAL PERSONS, OTHER 'ABNORMAL' PERSONS"

Petitioner Mabon:

"AMENDS CONSTITUTION:  
RECOGNIZES CERTAIN CONDUCT AS  
ABNORMAL BEHAVIOR; SETS STANDARDS"

Petitioner Allen:

"AMENDS CONSTITUTION;  
DECLARES CERTAIN CONDUCT ABNORMAL;  
REQUIRES GOVERNMENT CONDEMNATION"

AMENDS CONSTITUTION:  
FORBIDS GOVERNMENT FROM CONDONING  
HOMOSEXUALITY, OTHER LISTED BEHAVIORS

QUESTION: Shall Oregon's constitution be amended to declare homosexuality, other behaviors, abnormal, and forbid governments from promoting or condoning these behaviors?

SUMMARY: Amends Oregon Constitution. Declares pedophilia, sadism, masochism, homosexuality, bestiality and necrophilia as "abnormal, unnatural and perverse conduct" harmful to Oregon. Provides definitions. State may not recognize or protect this conduct under "sexual orientation" or "sexual preference" labels, or through quotas, minority status, affirmative action. State, regional and local governments may not promote or condone this conduct. All levels of government, including the state Department of Higher Education and public schools, must set a standard for Oregon's youth which recognizes this conduct is wrong and unnatural.

Ballot title certified as modified.

M E M O R A N D U M

TO: Board of Commissioners  
FROM: Laurence Kressel (106/1530) *lk*  
County Counsel  
DATE: December 30, 1993  
SUBJECT: Suit to Enjoin Transfer of Expo to Metro

---

BOARD OF  
COUNTY COMMISSIONERS  
1993 DEC 30 PM 3:04  
MULTNOMAH COUNTY  
OREGON

We have received the complaint in Multnomah County Pomona Grange et. al v. Multco and Metro. Since the complaint is lengthy, I have placed a copy on file with the clerk of the board for your review rather than issue individual copies to you. However, if you would like your own copy, please contact the clerk or Rita of my office.

There are no motions pending in this case and no court dates as of now.

Here is a summary of the allegations:

1. The IGA transferring Expo to Metro violates state law because it give Metro, which is not a Fair Board, control over the county fairground and revenues from the fairground. Plaintiffs allege

Metro would be "usurping" the powers of the Fair Board if it takes control of Expo.

2. Over a prolonged period, the BCC breached its duty as custodian of funds received from operation of the fairground in various ways, for example, in failing to place all fairground revenues in a special fair fund and in expending moneys from the fairgrounds for purposes other than the fair.

3. The BCC, acting as the Fair Board, has not properly accounted for funds distributed to the county by the Racing Commission for the fair from 1989-1992.

4. The eventual transfer of the Expo property to Metro will unjustly enrich citizens in Clackamas and Washington Counties because Multco expended general revenue in improvements at Expo.

We will keep you posted as any events come up. Feel free to contact me or John DuBay if you have questions.

cc Clark of BCC

RECORDED 1/14/04  
2:21 P - Co. Court

-100 Copy true Copy  
5/10/04

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

Case No. 9312-08198

SUMMONS

STATE OF OREGON EX REL MULTNOMAH COUNTY POMONA  
GRANGE, A Not For Profit Corporation,

Relator,

and CITIZENS TO PROTECT THE MULTNOMAH COUNTY FAIR,  
An Unincorporated Association; and MULTNOMAH COUNTY  
POMONA GRANGE; and TOM ALTON, an individual and JACK  
ADAMS, an individual,

Plaintiffs,

v.

THE BOARD OF COMMISSIONERS OF MULTNOMAH COUNTY,  
BEV STEIN, CHAIR, SHARON KELLEY, TANYA COLLIER, GARY  
HANSON, AND DAN SALTZMAN, COMMISSIONERS, AND EX  
OFFICIO MULTNOMAH COUNTY FAIR BOARD MEMBERS; AND  
THE METROPOLITAN SERVICE DISTRICT, RENA CUSMA,  
EXECUTIVE DIRECTOR, JUDY WYERS, PRESIDING OFFICER,  
ROGER BUCHANAN, SUSAN MCLAIN, JON KVISTAD, JIM  
GARDNER, RICHARD DEVLIN, MIKE GATES, GEORGE VAN  
BERGEN, RUTH MCFARLAND, ROD MONROE, ED  
WASHINGTON, SANDI HANSEN, AND TERRY MOORE,  
COUNCILORS.

Defendants.

TO: THE MULTNOMAH COUNTY, BY AND THROUGH ITS COUNSEL, LAURENCE KRESSEL, 1120  
SW FIFTH AVENUE, NO. 1530, PORTLAND, OREGON:

You are hereby required to appear and defend the complaint filed against you in the above entitled  
action within 10 days from the date of service of this summons upon you, and in case of your failure  
to do so, for want thereof, plaintiff(s) will apply to the court for the relief demanded in the complaint.

**NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY**  
You must "appear" in this case or the other side will win automatically.  
To "appeal" you must file with the court a legal paper called a "motion"  
or "answer." The "motion" or "answer" must be given to the court clerk  
or administrator within 30 days along with the required filing fee. It  
must be in proper form and have proof of service on the plaintiff's  
attorney or, if the plaintiff does not have an attorney, proof of service  
upon the plaintiff.  
If you have any questions, you should see an attorney immediately.

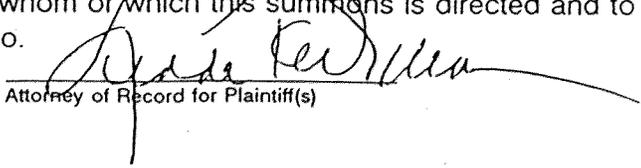
LINDA K. WILLIAMS  
OSB No. 78425  
10266 S.W. Lancaster Road  
Portland, OR 97219  
(503) 293-0399 fax 245-2772

STATE OF OREGON; ) ss.  
County of Multnomah )

I, the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and  
complete copy of the original summons in the above entitled action.

  
Attorney of Record for Plaintiff(s)

**TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS:** You are hereby directed to serve  
a true copy of this summons, together with a true copy of the complaint mentioned herein, upon the  
individual(s) or other legal entity or entities to whom or which this summons is directed and to make your  
proof of service on the page(s) attached hereto.

  
Attorney of Record for Plaintiff(s)

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**IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH**

**STATE OF OREGON EX REL MULTNOMAH COUNTY  
POMONA GRANGE, A Not For Profit Corporation,**

**Relator,**

**and CITIZENS TO PROTECT THE MULTNOMAH  
COUNTY FAIR, An Unincorporated Association; and  
MULTNOMAH COUNTY POMONA GRANGE; and  
TOM ALTON, an individual and JACK ADAMS, an  
individual,**

**Plaintiffs,**

**v.**

**THE BOARD OF COMMISSIONERS OF  
MULTNOMAH COUNTY, BEV STEIN, CHAIR,  
SHARON KELLEY, TANYA COLLIER, GARY  
HANSON, AND DAN SALTZMAN, COMMISSIONERS,  
AND EX OFFICIO MULTNOMAH COUNTY FAIR  
BOARD MEMBERS; AND THE METROPOLITAN  
SERVICE DISTRICT, RENA CUSMA, EXECUTIVE  
DIRECTOR, JUDY WYERS, PRESIDING OFFICER,  
ROGER BUCHANAN, SUSAN MCLAIN, JON  
KVISTAD, JIM GARDNER, RICHARD DEVLIN, MAKE  
GATES, GEORGE VAN BERGEN, RUTH  
MCFARLAND, ROD MONROE, ED WASHINGTON,  
SANDI HANSEN, AND TERRY MOORE,  
COUNCILORS.**

**Defendants.**

Case No.  
**9312-08198**

**SUIT FOR  
DECLARATORY  
RELIEF,  
ACCOUNTING,  
AND UNJUST  
ENRICHMENT**

**ACTION FOR  
USURPATION OF  
OFFICE UNDER  
ORS 30.510**

**EXEMPT FROM  
ARBITRATION**

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**INTRODUCTION**

I.

This suit arises out of an attempt by defendant Multnomah County Commissioners acting as the Fair Board to transfer management and ownership of the Multnomah County

1 Fairgrounds to the Metropolitan Service District (Metro). It is a suit for declarative and  
2 injunctive relief seeking to stop the implementation of a certain Intergovernmental  
3 Agreement to the extent that the IGA purports to give control of the revenues from  
4 rents, permits, and licenses for events held at the Multnomah County Fairgrounds to an  
5 entity which is not and cannot be a properly constituted Fair Board or *ex officio* Fair  
6 Board under state law.

7 Plaintiffs also seek an accounting for the special revenue fund, the "fair fund" (1)  
8 which should have, but did not, credit all revenues from rents, permits and licenses for  
9 events held at the Fairgrounds thus failing to account for several million dollars since  
10 1985, (2) to account for "cash transfers" from account No. 162, the Fair Fund, in excess  
11 of \$250,000.00 since 1989, and (3) to account for \$65,000 in dedicated funds distributed  
12 by the state since 1989 but not used for dedicated purposes of prizes.

13 Relator, Multnomah County Pomona Grange, seeks a declaration that any exercise  
14 of control of, management of, or use of revenues from, rents, permits and licenses at  
15 Multnomah County Fair the is an illegal usurpation of Fair Board office by Metro.

16 Plaintiffs, including taxpayer Tom Alton, seek an order of the Court enjoining any  
17 transfer of the Multnomah County Fairgrounds to Metro without a determination of fair  
18 market value of the real estate and real property, which have been paid for in substantial  
19 part by general taxes collected from Multnomah County taxpayers, and recognition of the  
20 equitable ownership of Multnomah County.  
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**THE PARTIES**

2.

Multnomah Pomona Grange No. 15 ("Pomona Grange") is a non-profit service organization with agricultural and community service interests. Pomona Grange has approximately 1700 adult members (ages 14 and older) who live in Multnomah County. It is included within the Oregon State Grange Charter and under the National Grange charter. Pomona Grange's business offices are in Multnomah County, Oregon.

3.

Pomona Grange has a longstanding institutional purpose and tradition of supporting the Multnomah County Fair, and supporting agricultural and community events in Multnomah County. Pomona Grange members regularly compete in open class competition at the annual Multnomah County Fair and they regularly compete in a class among Grange members of exhibitors at the Multnomah County Fair. Many members did so compete in 1993. Grange members intend to continue to attend the annual Multnomah County Fair and to continue to compete in the future if fairs are held.

4.

Pomona Grange members have attended and competed at the Multnomah County Fair and intend to attend in the future and actively encourage attendance and participation by all community at the Multnomah County Fair.

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5.

Many Pomona Grange members are taxpayers of Multnomah County and were taxpayers in the years 1970-1985, when substantial Multnomah County tax revenues were expended on the Fairgrounds.

6.

Grange members attending a meeting on or about November 20, 1993, passed a resolution authorizing this suit on behalf of its members who enjoy, attend and have and will exhibit at the Multnomah County Fair, who are taxpayers, and who enjoy the benefits of encouraging community events and celebrations such as the Multnomah County Fair.

7.

Citizens For Protecting the Multnomah County Fair is an unincorporated association with long time Multnomah County Fair attendees, Multnomah County Fair competition exhibitors and taxpayers among its members

8.

Tom Alton is a Grange member, resident of, and long-time property owner in Multnomah County. He regularly attends the Multnomah County Fair.

9.

Jack Adams is a Grange member and a member of Citizens for Protecting the Multnomah County Fair and a resident of Multnomah County. He regularly attends the Multnomah County Fair.

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10.

The Multnomah County Commissioners are the elected governing body of Multnomah County. Bev Stein is the elected chair of the commission. Sharon Kelley, Tanya Collier, Gary Hanson, and Dan Saltzman are commissioners.

11.

In Multnomah County the county fair board may be specially appointed by the governing body as provided in ORS 565.210(2), and the Board of County Commissioners is authorized to act as county fair board. At all relevant times, the Multnomah County Commissioners have acted in lieu of a County Fair Board in administering the proceeds of the Multnomah County Fair.

12.

The Metropolitan Service District (Metro) is a governmental entity formed under ORS ch 268. Rena Cusma is the elected executive director. Judy Wyers, Roger Buchanan, Susan McLain, Jon Kvistad, Jim Gardner, Richard Devlin, Mike Gates, George Van Bergen, Ruth McFarland, Rod Monroe, Ed Washington, Sandi Hansen, and Terry Moore are councilors.

JURISDICTION

13.

The Circuit Court has jurisdiction over claims for usurpation, declaratory judgment, and suits against county ordinances.

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**GENERAL ALLEGATIONS**

14.

Multnomah County owns approximately 60 acres of land in North Portland known as the Multnomah County Expo Center and Fairgrounds. The County has variously referred to the North Portland site as "Multnomah County Exposition Center site," "Multnomah County Fair and Exposition Center," and "EXPO." The County uses "Multnomah County Fair and Exposition Center" on all its stationary and official business dealings to date.

15.

The Multnomah County Fair Association deeded property in Gresham, Oregon, to Multnomah County in 1929. The site became known as the "Gresham Fairgrounds" and for years the annual Multnomah County Fair (as defined by statute) was held at the Fairgrounds. In 1965 the Pacific International Livestock Exposition ("PI") was granted \$250,000 by the State Legislature, repayable over a 10 year period. In return, the Legislature required the PI to turn its North Portland facilities (approximately 45 acres and improvements) over to Multnomah County and pay rent to Multnomah County for the use of the facilities. Multnomah County then was responsible for the maintenance of the North Portland PI facility.

16.

On or about September 20, 1966, the Multnomah County Commissioners acted in the matter of the "consolidation of the Multnomah County Fair and Multnomah County Exposition Center," and it was moved and ordered "to move the Multnomah County Fair

1 to the Pacific International site, start immediately with the development of a master plan,  
2 and proceed with acquisition of the land necessary to accommodate the merged  
3 facilities." Exhibit A.

4 17.

5 Multnomah County thereafter in 1969 condemned three additional contiguous parcels for  
6 "fairgrounds", spending \$281,000 on the purchase price. Exhibits B, C and D.

7 18.

8 The move of the Fair event took place on or before the holding of the first County Fair  
9 at the site in 1970. The fair staff, funds and assets were co-mingled starting in 1965. All  
10 of the fair assets, including the then-extant \$900,000 fair fund and \$400,000 from the sale  
11 of the Gresham Fairgrounds property, whatever buildings could be moved and all  
12 accoutrements, staff and equipment were moved from the Gresham County Fairgrounds  
13 to the new Multnomah County Fair and Exposition Center.

14 19.

15 In 1970, the Commissioners, acting in the capacity of the Fair Board, passed a resolution  
16 which defined the

17 "County Fairgrounds" shall mean the location of the Multnomah County  
18 Exposition Center (followed by legal description).

19 Exhibit E.  
20

21 20.

22 The Multnomah County Fair has been in continuous, uninterrupted annual operation for  
23 87 years and for the last 23 years has been held at the Multnomah County Fairgrounds  
24 and Exposition Center.

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21.

The land described in Exhibits A-E is the Multnomah County Fairgrounds.

22.

The Fair Board is the only entity under law which can operate the fairgrounds year-round for the benefit of the county fair and the fair fund as provided by ORS 565.230:

(1) The [fair] board has the exclusive management of the ground and all other property owned, leased, used or controlled by the county and devoted to the use of the county fair, and is entrusted and charged with the entire business management and financial and other affairs of such fair.

(2) In order that the fairgrounds and buildings may be utilized to the fullest extent for pleasure, recreation and public benefit, the [fair] board shall at all times have the authority to provide park facilities for the public or to issue licenses and grant permits for the holding of any exhibitions, shows, carnivals, circuses, dances, entertainments or public gatherings upon the fairgrounds. . . . The board shall fix the sum to be paid for such permits and licenses, which shall be issued and signed by the president and secretary of the board. The moneys received from the issuance of such permits and licenses shall be deposited to the credit of the fair fund and warrants drawn against it the same as upon the disbursement of any other fair funds.

23.

Multnomah County Commissioners/Fair Board have a duty to deposit all revenues generated by the granting of permits and licenses for use of the park and facilities at the Fairgrounds, into the fair fund, whether or not the money generated by such use takes place during the time the county fair is held.

24.

The moneys received from the issuance of such permits and licenses are required to be deposited to the credit of the "fair fund," a special fund, and cannot be transferred from

1 a special fund to the county general fund because of the prohibition of transfers from  
2 special funds contained at ORS 294.450(4) which states that

3 it shall be unlawful to transfer appropriations from any special revenue funds  
4 to the general fund or any other special revenue fund.  
5

6 25.

7 In addition to the funds described above which must be deposited into the fair fund, each  
8 county treasury receives a proportionate distribution of racing revenues (under a formula  
9 set forth in ORS 462.280) from the Oregon Racing Commission. Under ORS 565.290, if  
10 the county holds a fair, these funds received from the Oregon RaCing Commission  
11 Account under ORS 565.280 must be dedicated to the purpose of providing premiums  
12 and prizes at the annual county fair.

13 26.

14 On December 16, 1993, the Multnomah County Commissioners adopted resolution  
15 entering into the attached intergovernmental agreement ("IGA"), Exhibit F,  
16 "Intergovernmental Agreement Regarding Transfer of Regional Parks, Natural Areas,  
17 Golf Courses, Cemeteries, and Trade/Spectator Facilities Presently Owned and Operated  
18 by Multnomah County to Metro."

19 27.

20 On December 9, Metro adopted Resolution No. 93-1877 approving the attached  
21 intergovernmental agreement ("IGA"), Exhibit F.

22 28.

23 Section 3.A of the IGA provides:

1 Effective January 1, 1994, COUNTY hereby transfers all operational and  
2 management rights and responsibilities for the following programs, activities,  
3 properties and/or facilities currently budgeted in the Multnomah County Recreation  
4 Fund, along with all funds and revenues related to these programs, to METRO:

5 \* \* \*

6 4. EXPO; \* \* \*

7  
8 Section 1 of the IGA defines "EXPO" as the Multnomah County Exposition Center,  
9 including and COUNTY-owned property appurtenant thereto.

10  
11 29.

12 Section 3.C.1 of the IGA states:

13  
14 Effective January 1, 1994, COUNTY hereby transfers to METRO the right to  
15 beneficial use of all real and personal property comprising the County Facilities. \* \*

16 \*

17  
18 Section 3.D purports to assign to METRO all "permits, rental agreements and licenses"  
19 to Metro and upon assignment, make such permits and licenses subject to management  
20 and control of Metro.

21  
22 30.

23 Section 3.H of the IGA deals with EXPO/Multnomah County Fair and states:

24 1. Expo shall be managed and operated by METRO by and through its  
25 Metropolitan Exposition-Recreation Commission, subject to whatever changes the  
26 Metro Council may from time to time make in the management, operation, or  
27 existence of its Metropolitan Exposition-Recreation Commission.

28 \* \* \*

29  
30 3. \* \* \*. The Multnomah County Fair shall continue to be the sole and exclusive  
31 responsibility of the COUNTY.  
32  
33

1 **FIRST CLAIM FOR RELIEF: DECLARATORY JUDGMENT UNDER ORS 28.020**  
2 **THAT THE IGA VIOLATES ORS 565.535 BY GIVING CONTROL OF THE**  
3 **MANAGEMENT OF THE FAIRGROUNDS AND ITS REVENUES TO AN ENTITY**  
4 **WHICH CANNOT BE A FAIR BOARD.**

5  
6 31.

7 Plaintiffs reallege ¶¶ 1-30.

8 32.

9 To the extent that the IGA gives management and control of the Multnomah County  
10 Fairgrounds and rents to Metro it is contrary to ORS ch 565.

11 **SECOND CLAIM FOR RELIEF: DECLARATION THAT THE IGA Unlawfully**  
12 **USURPS OF FAIR BOARD OFFICES IN VIOLATION OF ORS 30.510.**

13  
14 33.

15 Relator realleges ¶¶ 1-30.

16 34.

17 Defendant Metro's Resolution No. 93-1877 and defendant County's authorization of the  
18 IGA will have the effect of usurping and unlawfully intruding Metro into the statutory  
19 duties of the Multnomah County Fair Board to manage Fairgrounds and offer licenses  
20 and permits for use of the facilities in violation of ORS 30.510

21 **THIRD CLAIM FOR RELIEF: ACTION FOR AN ACCOUNTING OF FUNDS 162 AND**  
22 **330 AND ALL FAIR FUNDS FROM 1985 TO PRESENT AGAINST MULTNOMAH**  
23 **COUNTY COMMISSIONERS/FAIR BOARD.**

24  
25 35.

26 Plaintiffs reallege ¶¶ 1-30.

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36.

The defendant Multnomah County Commissioners/*ex officio* Fair Board members owe the fair fund the duties of trustees and the standards of fiduciary care in the collection, management and accounting for the fair funds for the purposes so intended.

37.

The defendant Commissioners/Fair Board breached that duty of care, *inter alia*:

A. By not accounting for all revenues from rents, permits and licenses received from the operation of the Fairgrounds at all times in a special fund, but instead from at least 1989, maintaining at least two funds, namely, account number "162 County Fair," and account number "330 Expo Center" or "Recreation Fund," some equivalent accounts for periods prior to 1989.

- (1) In 1989-90 the County Fair account actual revenues were \$700,355 and its actual expenses were \$443,888;
- (2) In 1990-91 the County Fair account actual revenues were \$617,851 and its actual expenses were \$470,323;
- (3) In 1991-92 the County Fair account actual revenues were \$520,749 and its actual expenses were \$490,358;
- (4) In 1989-90 the Expo Center account actual revenues were \$1,987,043 and the actual expenses were \$717,878;
- (5) In 1990-91 the Expo Center account actual revenues were \$1,579,295 and actual expenses were \$919,659;

1 (6) In 1991-92 the Expo Center account actual revenues were \$2,061,954  
2 and actual expenses were \$1,360,617.

3 B. Neither the fund known as "162 County Fair" nor "330 Expo Center" was  
4 treated as a special fund, and a number of cash transfers not for fair purposes  
5 and not properly accounted for were made from each fund, *inter alia*:

6 (1) In 1989-90 \$104,485 was a "cash transfer" from the County  
7 Fair Account to the Expo Center Account;

8 (2) In 1990-91 \$119,349 was a "cash transfer" from the County  
9 Fair Account to the Expo Center Account;

10 (3) In 1991-92 \$30,391 was a "cash transfer" from the County Fair  
11 Account to the Expo Center Account;

12 (4) Apparently significant amounts from the Expo Center  
13 Account are routinely transferred to the Recreation account,  
14 including \$422,580 in 1991-92.

15 C. The Fair Board has never properly accounted for the funds distributed by the  
16 Oregon Racing Commission, *inter alia*, from 1989 through 1992 at least  
17 \$65,000 in dedicated prize and premium money was not spent on dedicated  
18 purpose, not carried forward as a reserve, and is unaccounted for:

19 (1) In 1989-90 the County Fair account actually received \$58,142 in  
20 distributions from the county treasury and actually spent \$15,418 in  
21 premiums and prizes;

1 (2) In 1990-91 the County Fair account actually received \$54,312 in  
2 distribution from the county treasury and actually spent \$28,039 on  
3 premiums and prizes;

4 (3) In 1991-92 the County Fair account actually received \$56,000 in  
5 distribution from the county treasury and actually spent \$38,000 on  
6 premiums and prizes.

7 38.

8 As a result of defendants' mismanagement of funds and failure to preserve funds,  
9 plaintiffs are threatened with an impaired fair operation, additional costs and fees,  
10 reduced opportunities for competition, and other detriments to the annual count fair  
11 because money which should have properly remained in the special fair fund is not  
12 available for fair purposes and the financial operation of the Fair is threatened.

13 39.

14 Defendant commissioners/Fair Board owe plaintiffs an accounting of the fair fund and all  
15 revenues generated by EXPO, the Multnomah County Fairgrounds and Exposition  
16 Center.

17 **FOURTH CLAIM FOR RELIEF: UNJUST ENRICHMENT OF METRO BY THE**  
18 **TAXPAYERS OF MULTNOMAH COUNTY.**

19 40.

20 Plaintiffs reallege ¶¶ 1-30.

21  
22  
23 41.

1 In 1969 the Oregon Legislature removed the \$5000.00 cap on the amount of county  
2 general revenue funds which could be budgeted and donated by a county to the County  
3 Fair Fund.

4 42.

5 From 1970 through 1985, Multnomah County did not maintain a special fair fund and  
6 spent an unidentified, but substantial, amount of general revenues on the improvements,  
7 maintenance, condemnation of land, etc. of the Fairgrounds.

8 43.

9 The citizens and taxpayers of Multnomah County have an equitable ownership interest in  
10 the fairgrounds and improvements alleged at ¶ 42.

11 44.

12 The present fair market value of the Multnomah County Fairgrounds and improvements  
13 is in excess of \$30,000,000.

14 45.

15 The constituents of Metro in Clackamas and Washington Counties will be unjustly  
16 enriched by receiving, without consideration, land and improvements paid for by mr of  
17 Multnomah County only if the Phase II property transfer of Expo contemplated by the  
18 IGA is consummated without compensation to Multnomah County taxpayers ownership  
19 interests.  
20

1 WHEREFORE, Plaintiffs and realtor pray:

- 2 (1) for an order of this Court (1) declaring section 3 of IGA, void *ab initio* and (2) an  
3 illegal *ultra vires* delegation of duty by Commissioners/Fair Board on their first claim  
4 for relief;
- 5 (2) for an order of this Court enjoining Metro from usurping the powers of the  
6 Multnomah County Fair Board after January 1, 1994, and to impose a constructive  
7 trust for the benefit of the Fair Board upon any revenues collected by Metro under  
8 the Intergovernmental Agreement, to order that the Fair Board shall be entitled to  
9 the offices, to order Metro return all books, papers and property belonging to the  
10 Fair Board and to impose the statutory fine upon Metro of \$2000.00 on relator's  
11 second claim for relief;
- 12 (3) for an order ordering Multnomah County Commissioners/Fair Board to account for  
13 all Fairgrounds revenues since 1985 and to return any amounts found by the Court  
14 to have been improperly expended from the special account to be restored to the  
15 special account for the Fair Fund, to be properly administered, and to declare that  
16 by such breaches of fiduciary duties the County Commissioners are not proper  
17 trustees of the Fair Fund, and that the Commissioners appoint independent  
18 trustees/Fair Board under ORS 565.230 on their third claim for relief;
- 19 (4) for an order enjoining any transfer of real and personal property at the Multnomah  
20 County Fairgrounds and Exposition Center to Metro without adequate  
21 compensation to the Multnomah County fisc;
- 22 (5) for their reasonable attorneys fees in equity for preserving and restoring trust funds;

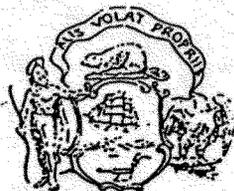
1 (6) for such other relief as the Court deems appropriate; and,  
2 and for an award of their costs and disbursements incurred within.  
3

4 Dated: December 22, 1993

Respectfully Submitted,

5  
6  
7 

8 LINDA K. WILLIAMS  
9 OSB No. 78425  
10 10266 S.W. Lancaster Road  
11 Portland, OR 97219  
12 (503) 293-0399 fax 245-2772  
13 For Plaintiffs and Relator  
14  
15  
16  
17  
18  
19



COUNTY  
COMMISSIONERS  
DAVID ECCLES  
M. JAMES GLEASON  
MEL GORDON

# MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS

(503) 227-8411 • ROOM 605, COUNTY COURT HOUSE • PORTLAND, OREGON • 97204

September 20, 1966

Mr. Duane Hennessy, Manager ✓  
Multnomah County Fair  
Gresham, Oregon

Mr. John J. O'Donnell  
Auditor  
Court House

Mr. P. C. Northrop  
Roadmaster  
2115 S. E. Morrison Street  
Portland, Oregon

Dear Sir:

Be it remembered, that at a meeting of the Board of  
County Commissioners held September 20, 1966, the following action was taken:

In the matter of consolidation of the )  
Multnomah County Fair and the Multnomah )  
County Exposition Center )

At this time, Commissioner Gordon urged the Board to  
agree to move the Multnomah County Fair to the Pacific International site,  
start immediately with the development of a master plan, and proceed with  
acquisition of the land necessary to accommodate the merged facilities,  
and Commissioner Eccles so moved, and it was so

ORDERED.

Yours very truly,

BOARD OF COUNTY COMMISSIONERS

By K. Northrop  
Clerk of Board

je

COMPLAINT  
EXHIBIT A

MULTNOMAH COUNTY, OREGON

In the Matter of the Condemnation of )  
 Certain Real Property Located in Mult- )  
 nomah County, Oregon, the Title to )  
 Which is Vested in PENINSULA TERMINAL ) RESOLUTION  
 COMPANY, a corporation, for Multnomah )  
 County Fairgrounds Purposes. )

WHEREAS, the real property hereinafter described is required for the construction of the Multnomah County Fairgrounds and Multnomah County finds it necessary to acquire said property for the said purpose; now, therefore,

BE IT RESOLVED by the Board of County Commissioners for Multnomah County, Oregon, that the said County does declare its intention to acquire for Fairgrounds purposes the fee simple title to the following described real property situated in the County of Multnomah and State of Oregon, to-wit:

... parcel of land situated in the South east quarter of Section 33, T2N, R1E, W.M., Multnomah County, Oregon, more particularly described as follows:

Commencing at Station 34+35.04 on the Union Heat Base line (the bearing of which is S. 66°32' E.); thence S. 23°28' W. 822.00 feet; thence S. 66°32' E. 6.30 feet to the point of beginning, being a point in the East line of N. Force Avenue, County Road No. 2720; thence S. 66°32' E. 1044.70 feet; thence N. 23°28' E. 100.00 feet; thence N. 66°32' W. 822.74 feet; thence S. 23°28' W. 17.00 feet; thence N. 66°32' W. 421.96 feet to the East line of N. Force Avenue, County Road No. 2720; thence S. 23°28' W. along said East line 83.00 feet to the point of beginning, containing 97,297 square feet, 2.23 acres;

and by reason of the necessity aetofore expressed,

BE IT FURTHER RESOLVED that the Board of County Commissioners does hereby appropriate and offer for said property the sum of Thirty-three Thousand Five hundred Dollars (\$33,500.00); and

BE IT FURTHER RESOLVED that the District Attorney of Multnomah County, Oregon, is hereby authorized and directed to communicate with the owners of said property, and to offer the owners of said property the said amount for conveyance of unencumbered title to the county, and in the event that the said offer is refused, the District Attorney is hereby authorized and directed to commence and prosecute in a court of competent jurisdiction in the name of Multnomah County any necessary suit, action or proceeding for the acquisition of said described real property by condemnation.

February 27, 1969

APPROVED AS TO FORM: (SEAL)  
 GEORGE VAN BOOMISSEN  
 District Attorney for  
 Multnomah County, Oregon

BOARD OF COUNTY COMMISSIONERS  
 MULTNOMAH COUNTY, OREGON

BY M. JAMES GLEASON  
 Chairman

BY WILLIS A. WEST  
 Willis A. West  
 Chief Civil Deputy

COMPLAINT  
 EXHIBIT B

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR

MULTNOMAH COUNTY, OREGON

In the Matter of the Condemnation of  
Certain Real Property Located in Mult-  
nomah County, Oregon, the Title to  
Which is Vested in PORTLAND UNION  
STOCKYARD CO., a corporation, for  
Multnomah County Fairgrounds Purposes.

RESOLUTION

WHEREAS, the real property hereinafter described is required for the construction of the Multnomah County Fairgrounds and Multnomah County finds it necessary to acquire said property for the said purpose; now, therefore,

BE IT RESOLVED by the Board of County Commissioners for Multnomah County, Oregon, that the said County does declare its intention to acquire for Fairgrounds purposes the fee simple title to the following described real property situated in the County of Multnomah and State of Oregon, to-wit:

A parcel of land situated in the Southeast quarter of Section 33, T2N, R1E, W.M., Multnomah County, Oregon, more particularly described as follows:

Commencing at Station 34+35.04 on the Union Meat Base Line (the bearing of which is S. 66°32' E.); thence S. 23°28' W. 722.00 feet; thence S. 66°32' E. 6.30 feet to the point of beginning, being a point in the East line of N. Force Avenue, County Road No. 2720; thence continuing S. 66°32' E. 421.96 feet; thence S. 23°28' W. 17.00 feet; thence N. 66°32' W. 421.96 feet to a point in the East line of N. Force Avenue, County Road No. 2720; thence along said East line N. 23°28' E. 17.00 feet to the point of beginning, containing 7,173 square feet.

and by reason of the necessity heretofore expressed,

BE IT FURTHER RESOLVED that the Board of County Commissioners does hereby appropriate and offer for said property the sum of Two Thousand Five Hundred Dollars (\$2,500.00); and

BE IT FURTHER RESOLVED that the District Attorney of Multnomah County, Oregon, is hereby authorized and directed to communicate with the owners of said property and to offer the owners of said property the said amount for conveyance of unencumbered title to the county, and in the event that the said offer is refused, the District Attorney is hereby authorized and directed to commence and prosecute in a court of competent jurisdiction in the name of Multnomah County any necessary suit, action or proceeding for the acquisition of said described real property by condemnation.

February 27, 1969

APPROVED AS TO FORM:

(SEAL)

GEORGE VAN HOOMISSEN  
District Attorney for  
Multnomah County, Oregon

BOARD OF COUNTY COMMISSIONERS  
MULTNOMAH COUNTY, OREGON

By M. JAMES GLEASON  
Chairman

By WILLIS A. WEST  
Willis A. West  
Chief Civil Deputy

COMPLAINT  
EXHIBIT C

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR

MULTNOMAH COUNTY, OREGON

In the Matter of Completing the Purchase  
of Real Property from EDWIN A. MENG, et ux.,  
by Multnomah County, Oregon, for Fairground  
Site.

ORDER

The above-entitled matter is before the Board on request of the District Attorney for authority to proceed with the completion of the purchase of certain real property, more particularly described as follows:

A parcel of land in Section 4, Township 1 North, Range 1 East and Section 33, Township 2 North, Range 1 East of the Willamette Meridian, in Multnomah County, Oregon, more particularly described as follows:

Beginning at the Northwest corner of the 11.06 acre tract conveyed to the Kernan Livestock Farm, Inc., by the Peninsula Industrial Company by deed recorded in Deed Book 390, Page 209; running thence South 23°28' West along the West line of said 11.06 acre tract, 578.0 feet, more or less, to the Southwest corner of said 11.06 acre tract which point is also the Northwest corner of the 7.82 acre tract conveyed to the Kernan Livestock Farm by the Peninsula Industrial Company by deed dated April 30, 1937, and recorded in Deed Book 395, Page 460; also being the Southeast corner of the 21.60 acre tract conveyed by Peninsula Industrial Company to Portland Union Stock Yards Company, by a deed recorded May 29, 1926, in Deed Book 1063, Page 15; said point being also described as being 1400 feet southerly from and at right angles to Station 34+25.04 on the Union Meat Company's baseline at North Portland, Oregon; running thence South 23°28' West, 717 feet; thence South 66°32' East 363.7 feet, more or less to the Northwest corner of the 80 acre tract conveyed by said Peninsula Industrial Company to Oregon Publishing Company by deed recorded August 18, 1936, in Deed Book 350, Page 524; running thence North 60°23' East along said North line, 333.0 feet more or less to the Southwest corner of the 5.1 acre tract conveyed to the Oregon Publishing Company by the Kernan Livestock Farm, by deed recorded June 24, 1937, in Deed Book 404, Page 364; running thence North 28°45' East along the West line of said tract 754.8 feet, more or less to the Northwest corner of said tract; thence running North 23°28' East 276.6 feet more or less to the North line of said 11.0 acre tract; thence North 66°32' West along the North line of said 11.06 acre tract 633.0 feet more or less to the point of beginning, excepting that portion in North Force Road, containing 17.0 acres more or less;

and directing disbursement of the purchase moneys; and

It now appearing to the Board that EDWIN A. MENG and JEAN S. MENG, husband and wife, delivered to Multnomah County on April 15, 1968, an option to purchase the above-described real property for the price of \$245,000.00, and the Board having heretofore on October 10, 1968, accepted said option, and the Board being fully advised in the premises, it is hereby

COMPLAINT  
EXHIBIT D

ORDERED that the District Attorney of Multnomah County, Oregon, proceed with the closing of the purchase of the real property above described at the offered price of \$245,000.00, and that any existing encumbrances against said property and expense of title insurance be satisfied directly out of the proceeds of the sale and the balance delivered to EDWIN A. MENG and JEAN S. MENG, husband and wife; and it is

FURTHER ORDERED that the Director, Department of Finance, Multnomah County, Oregon, be and he is hereby directed to draw warrants on the COUNTY FAIR DEVELOPMENT FUND of the County for the purposes and in the amounts as follows:

TRANSAMERICA TITLE INSURANCE COMPANY			
318 S. W. 4th Avenue			
Portland, Oregon 97204			
Title Policy No. 21-913	\$660.00		
(Based on \$245,000.00)			
Less amount previously paid by Dept. of Public Works	<u>25.00</u>	\$635.00	
Recording Fee		<u>1.50</u>	\$ 636.50
TAX COLLECTOR, MULTNOMAH COUNTY			1,299.90
1968-69 Property Taxes			
FIRST NATIONAL BANK OF OREGON			
P. O. Box 3131			
Portland, Oregon 97208			
Satisfaction of Mortgage			
Oct. 1, 1968, Balance		\$26,153.68	
Int. to 11/1/68 @ \$4.36		<u>135.16</u>	26,288.84
EDWIN A. MENG and JEAN S. MENG			
c/o Mr. Frank B. Magee			
Attorney at Law			
17th Fl., Standard Plaza			
Portland, Oregon 97204			
Balance due grantors on purchase price of above described property less pro rata tax deduction to 10/15/68 of \$379.14			<u>217,670.52</u>
Total amount of warrants to be issued			\$245,895.76
[Amount previously paid by Dept. of Public Works toward title insurance premium			<u>25.00</u> ]
[Total Cost of Property			<u>245,920.76</u> ]

and it is

FURTHER ORDERED that each and all of the warrants above enumerated be forwarded by the Director, Department of Finance, to the District Attorney of Multnomah County for delivery to the payees thereof on receipt by the District Attorney of satisfactory deeds of conveyance and evidence of title vesting in Multnomah County, Oregon.

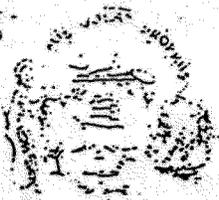
October 30, 1968

APPROVED AS TO FORM  
GEORGE VAN BOOMISSEN  
District Attorney

(SEAF)

BOARD OF COUNTY COMMISSIONERS  
MULTNOMAH COUNTY, OREGON

By J. JAMES GLEASON  
Chairman



COUNTY COMMISSIONERS  
 M. JAMES GLEASON, Chairman  
 L. W. AYLSWORTH  
 DAVID ECCLES  
 DAN MOSEE  
 MEL GORDON

**MULTNOMAH COUNTY OREGON**

BOARD OF COUNTY COMMISSIONERS

533, 327-8411 • ROOM 625, COUNTY COURT HOUSE • PORTLAND, OREGON • 97204

January 7, 1969

Mr. Edwin A. Meng and  
 Mrs. Jean S. Meng  
 11630 N. Force Avenue  
 Portland, Oregon

Dear Mr. and Mrs. Meng:

The option given to Multnomah County on April 5, 1968, resulting in the purchase of your property as a ~~portion of the grounds needed for the establishment of the County Fairgrounds at the Exposition Center~~ provided that you could continue to occupy the property until the County would require it for construction purposes.

The County has progressed far enough now in its plans for the relocation of the County Fair to require your vacation of the premises.

Accordingly, you are hereby notified that in accordance with the terms of the agreement under which you are now in possession of the property, possession of the property must be surrendered to the County ninety (90) days from the date of your receipt of this letter.

Very truly yours,

BOARD OF COUNTY COMMISSIONERS  
 MULTNOMAH COUNTY, OREGON

cc: Mr. Frank E. Magee  
 Morrison & Bailey  
 Attorneys at Law  
 17th Fl., Standard Plaza  
 Portland, Oregon 97204

By \_\_\_\_\_  
 Chairman

Mr. Duane Hennessy  
 Multnomah County Fairgrounds  
 Box 71  
 Gresham, Oregon 97030

119

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR  
MULTNOMAH COUNTY, OREGON

In the Matter of the Adoption of Rules )  
and Regulations Pertaining to the Use )  
of MULTNOMAH COUNTY EXPOSITION CENTER ) ORDER  
by Motor Vehicles. )  
\_\_\_\_\_ )

The above-entitled matter is before the Board to consider the adoption of rules and regulations for the control of motor vehicles using the Multnomah County Exposition Center property; and

It appearing to the Board that the Board of County Commissioners is a County Fair Board within the provisions of ORS 565.010 - 565.990 and is authorized pursuant to the provisions of ORS 565.630 to regulate all matters pertaining to the conduct of its annual fairs, exhibitions and other public meetings to be held at the site of the Multnomah County Exposition Center on lands hereinafter described; and

It further appearing to the Board that extensive use of the Exposition Center site is made by motor vehicles as hereinafter defined, necessitating the adoption of appropriate rules and regulations in the public safety and for the accommodation and convenience of the public using the facilities afforded by Multnomah County at said Exposition site; and the Board being fully advised in the premises, it is therefore

ORDERED that the following rules and regulations be and the same are hereby adopted as the enforceable rules and regulations of Multnomah County pertaining to the operation of motor vehicles using the site of the Multnomah County Exposition Center pursuant to the provisions of ORS 565.630:

SECTION I - DEFINITIONS.

- A. "County Fairgrounds" shall mean the location of the Multnomah County Exposition Center, being:

A tract of land in Section 33, T.2N., R.1E., and Section 4, T.1N., R.1E., of the Willamette Meridian, in the County of Multnomah and the State of Oregon, described as follows:

Beginning at a 1-1/4 inch galvanized iron pipe with cemented brass cap, said pipe being Station 44+86.04 on the Union Meat Base Line (the bearing of which is S. 65°03'41" E.), said pipe also being on the West line of that 15-acre tract conveyed to the Kern Livestock Farm, Inc., by deed recorded December 13, 1934, in Book 274, Page 377, Deed Records, Multnomah County, Oregon; thence S. 24°56'19" W. a distance of 88.1 feet to the intersection of the southerly right-of-way of N. Marine Drive, a State highway, and the westerly line of that certain tract of land dedicated for

public right-of-way in Deed Book 312, Page 403, of Deed Records of Multnomah County, Oregon; thence easterly and southerly along the southerly and westerly line of those tracts of land conveyed to the State of Oregon by deeds recorded April 19, 1941, in Book 743, Page 332, March 17, 1955, in Book 1711, Page 516, and April 4, 1963, in Book 2161, Page 380, all in Deed Records of Multnomah County, Oregon, to the Southeast corner of an eleven-acre tract conveyed to the Pacific International Association by deed recorded in Book 222, Page 236 of Deed Records, Multnomah County, Oregon; thence S. 24°56'19" W. a distance of 518.50 feet to a 1-1/2" x 54" galvanized iron pipe, said pipe being the Northeast corner of Parcel II of that tract of land conveyed to King Broadcasting Company May 17, 1954, in Deed Book 1955, Page 106, of Deed Records, Multnomah County, Oregon; thence N. 65°03'41" E. a distance of 1237.19 feet to a 1-1/2" x 40" galvanized iron pipe, said pipe being the southwest corner of Parcel II of that certain tract of land recorded May 14, 1959, in Deed Book 1955, Page 409, Deed Records of Multnomah County, Oregon; thence S. 30°13'19" W. along the westerly line of that certain tract of land conveyed to the Oregon Publishing Co. by deed recorded June 24, 1937, in Deed Book 404, Page 364, Deed Records, Multnomah County, Oregon, a distance of 611.85 feet to a point; thence S. 61°51'19" W. a distance of 333.00 feet to a point; thence N. 65°03'41" W. a distance of 357.39 feet to a point in the East line of N. Force Avenue, County Road No. 2720; thence N. 24°56'19" W. along said East line a distance of 2028.30 feet to its intersection with the South line of said N. Marine Drive; thence N. 24°56'19" E. a distance of 60.00 feet to a point in the North line of said N. Marine Drive; thence N. 65°03'41" W. along said North line of N. Marine Drive a distance of 6.31 feet to a point; thence N. 24°56'19" E. a distance of 28.10 feet to a 1-1/2" x 51" galvanized iron pipe, said pipe being Station 34+35.04 on the Union Meat Base Line (the bearing of which is S. 65°03'41" E.); thence continuing N. 24°56'19" E. a distance of 161.90 feet more or less to the low water line of North Portland Harbor; thence southeasterly along the low water line of North Portland Harbor a distance of 1051.3 feet more or less to the West line of said Kern Livestock Tract; thence S. 24°56'19" W. a distance of 106.3 feet more or less along said West line to the point of beginning of this description.

EXCEPT that portion of dedicated public right-of-way in North Marine Drive, a State highway, and that portion which was conveyed to the public on October 29, 1935, in Deed Book 312, Page 403, Deed Records of Multnomah County, Oregon.

- B. The term "motor vehicle" as used herein means every self-propelled vehicle and vehicle designed for self-propulsion except police vehicles, fire and emergency vehicles.

SECTION II - PARKING.

- A. It shall be unlawful for any person to park a motor vehicle in an area posted as a "restricted area".
- B. Parking shall be permitted only in those areas posted by appropriate signs.
- C. No person shall park a motor vehicle on the County Fairgrounds unless on authorized business or for the purpose of attending a County Fair exhibition or other public meeting at which the public is invited.
- D. Any person parking a motor vehicle on the County Fairgrounds shall be subject to having the motor vehicle towed away at the driver's or owner's expense if the vehicle is parked in a manner contrary to these regulations.
- E. No person shall enter the County Fairgrounds by motor vehicle between the hours of 5:00 o'clock p.m. and 7:00 o'clock a.m. unless doing so for the purpose of attending a public show, exhibition or meeting.
- F. Speed of Vehicles. - No person shall operate a motor vehicle upon the County Fairgrounds at any time in excess of ten (10) miles per hour.
- G. Enforcement. -

(1) The Multnomah County Sheriff and his officers assigned to traffic control shall be responsible for the enforcement of these Rules and Regulations and are authorized to issue citations prescribed by ORS 484.150 to persons in violation thereof.

(2) Any person violating these Rules and Regulations shall be guilty of a misdemeanor and is punishable upon conviction by a fine of not less than Five Dollars (\$5.00) nor more than Ten Dollars (\$10.00) as provided by the provisions of ORS 565.990.

THESE RULES AND REGULATIONS shall be in full force and effect fifteen (15) days after the making of this order.

MADE this 9th day of July, 1970.

BOARD OF COUNTY COMMISSIONERS  
MULTNOMAH COUNTY, OREGON

By M. James Shear  
Chairman

By K. H. ...  
Commissioner

By ...  
Commissioner

By Donnell Clark  
Commissioner

By ...  
Commissioner

APPROVED AS TO FORM:  
GEORGE VAN HOOMISSEN  
District Attorney for  
Multnomah County, Oregon

By Willis A. ...  
Chief Civil ...

**INTERGOVERNMENTAL AGREEMENT**

Intergovernmental Agreement Regarding Transfer of Regional Parks,  
Natural Areas, Golf Courses, Cemeteries, and Trade/Spectator Facilities  
Presently Owned and Operated by Multnomah County to Metro.

This Agreement dated as of December 9, 1993, is between Metro (METRO); and Multnomah County (COUNTY).

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COMPLAINT  
EXHIBIT F

## RECITALS:

1. METRO and COUNTY were two key participants in the preparation of the Metropolitan Greenspaces Master Plan adopted July 1992. The November 1992 bond measure to fund METRO acquisition of Greenspaces raised the issue of METRO's operations and maintenance capability. Consolidation of COUNTY Parks and METRO Greenspaces personnel and policy implementation creates METRO operations and maintenance capability with experienced COUNTY personnel.
2. The COUNTY and METRO have been involved in extensive negotiations regarding transfer of regional parks, recreational facilities, natural areas, golf courses, cemeteries, and trade/spectator facilities presently owned and operated by COUNTY to METRO.
3. The negotiating process produced a Memorandum of Understanding which stated proposed principles to govern an initial phase of transfer and consolidation; which expressed the intention of the COUNTY and METRO to approve a formal intergovernmental agreement consistent with those principles; and which anticipated that the formal intergovernmental agreement would be prepared and approved as soon as possible.
4. The Metro Council and the County Commission approved the Memorandum of Understanding.
5. This Agreement has been prepared to implement the Memorandum of Understanding.

## SECTION 1

### DEFINITIONS

In this Agreement, the following terms shall have the following meanings unless the context indicates otherwise:

"Council" or "Metro Council" means the Metro Council provided for in the 1992 Metro Charter, or the lawful successor thereto.

"County" means Multnomah County, Oregon, or the lawful successor thereto.

"County Chair" means the duly elected Chair of the Multnomah County Board of Commissioners, or the lawful successor thereto.

"County Commission" means the Multnomah County Board of Commissioners, or the lawful successor thereto.

"County Facilities" means all park facilities (except Vance Park) and natural areas currently owned or operated by COUNTY, including but not limited to Glendoveer Golf Course; Pioneer Cemeteries; the Multnomah County Exposition Center (EXPO), including any COUNTY-owned property appurtenant to EXPO; and any new acquisitions of natural areas by COUNTY. A complete list of all properties contemplated for transfer is attached and incorporated herein as Exhibit 1.

"EXPO" means the Multnomah County Exposition Center, including any COUNTY-owned property appurtenant thereto.

"Metro" means Metro, or the lawful successor thereto.

"Metro ERC" means the Metropolitan Exposition-Recreation Commission.

"Metro ERC Facilities" means the Oregon Convention Center and other convention, trade, or spectator facilities owned by Metro or operated by Metro ERC.

"Metro Executive Officer" or "Executive Officer" means the duly elected Metro Executive Officer provided for in the 1992 Metro Charter, or the lawful successor thereto.

"Neighborhood Parks" means those of the County Facilities which are identified as such in Exhibit 1, except Vance Park.

"Other Facilities" means present and future regional parks, natural areas, golf courses, cemeteries, and trade, or spectator facilities other than the County Facilities and current Metro and Metro ERC Facilities.

## SECTION 2

### PURPOSE

The purpose of this Agreement is to provide for a two-phase consolidation of operation, management, and ownership of all regional park facilities, regional natural areas, and trade/spectator facilities presently owned and operated by COUNTY, including but not limited to Glendoveer Golf Course, Pioneer Cemeteries, and EXPO, into the mix of natural spaces and trade/spectator facilities currently owned or operated by METRO, and to provide for METRO operation and management of any Neighborhood Parks operated by COUNTY on a limited basis. The first phase of consolidation shall be of limited duration pending full consolidation, including transfer of ownership of the County Facilities to METRO, with the exception of any Neighborhood Parks. The first phase of consolidation is a management and operation agreement for all County Facilities managed and operated within the current Multnomah County Recreation Fund. It is understood between COUNTY and METRO that

the second phase of consolidation, including transfer of ownership, is of critical importance, and that PHASE I consolidation of operation and management is merely intended to promote a smooth and harmonious transfer of those County Facilities to METRO that are of "metropolitan concern" or otherwise within METRO's authority.

This Agreement is not intended to benefit any individual, employee, group of employees, corporation, or other legal entity other than METRO and COUNTY. This Agreement shall not be deemed to vest any rights in, nor shall it be deemed to be enforceable by, any third party in any proceeding whatsoever.

### SECTION 3

#### TERMS OF TRANSFER

##### A. Transfer of Operation and Management

Effective January 1, 1994, COUNTY hereby transfers all operational and management rights and responsibilities for the following programs, activities, properties and/or facilities currently budgeted in the Multnomah County Recreation Fund, along with all funds and revenues related to these programs, to METRO:

1. All park facilities (except Vance Park) and natural areas currently owned or operated by COUNTY;
2. Glendoveer Golf Course;
3. Pioneer Cemeteries;
4. EXPO; and
5. Any new acquisitions of regional natural areas by COUNTY subsequent to the date of this Agreement shall be transferred to METRO under the same terms and conditions set out in this Agreement for the other COUNTY facilities.

A complete list of all properties hereby affected is attached and incorporated herein as Exhibit 1.

These programs, activities, and facilities shall henceforth be referred to in this Agreement as the County Facilities, but, all said facilities other than any Neighborhood Parks will be identified exclusively as Metro-operated Facilities to the public and to users of those facilities, effective January 1, 1994. METRO shall have full power and authority to organize, manage, and operate the County Facilities as METRO deems appropriate.

B. Maintenance of Effort

METRO agrees to exert its best efforts to operate and maintain the EXPO, cemeteries, parks, recreation facilities, natural areas, established cultural and educational programs, natural and cultural resources, and all related appurtenances being transferred as part of this Agreement, in a manner which assures sustainable and continuous public use, safety and enjoyment at a level at least equal to that maintained by the COUNTY prior to the transfer, provided that sufficient funds remain available for such purposes. In the event of a shortfall requiring program curtailment, METRO and COUNTY shall meet to discuss available options. Provided, however, that METRO may suspend swimming or other water-related activities in Blue Lake Park whenever METRO determines that such a suspension would be prudent for health or safety reasons.

C. Real and Personal Property

1. Effective January 1, 1994, COUNTY hereby transfers to METRO the right to beneficial use of all real and personal property comprising the County Facilities, including any personal property associated with the management or operation of the County Facilities. COUNTY shall not take any action with regard to the real property or personal property comprising the County Facilities that would interfere with management and operation of the County Facilities by METRO. During PHASE I of this Agreement, METRO will not make any significant structural or functional changes to the County Facilities without first allowing the Transition Team to discuss the changes. During PHASE I of this Agreement, METRO shall list COUNTY as an additional insured on METRO property policies with respect to the County Facilities.

2. During PHASE I of this Agreement, COUNTY shall provide Multnomah County Fleet and Electronics service to provide maintenance and upkeep on all equipment associated with the County Facilities. COUNTY shall provide a standard of maintenance and upkeep at least equal to the standard previously kept by COUNTY for said equipment. COUNTY shall bill METRO for the cost of such services, in the same manner and at the same rate as charged to other COUNTY areas for comparable services. At METRO's option, such services and billing shall continue during PHASE II consolidation.

D. Contracts and Licenses

1. Effective January 1, 1994, COUNTY shall assign to METRO, all contracts, permits, rental agreements, and licenses to which COUNTY is a party and which are assignable without the consent of other parties. After January 1, 1994, these contracts, permits, rental agreements, and licenses shall be subject to management and control by METRO, or Metro ERC, as Metro shall designate.

2. Effective January 1, 1994, COUNTY shall assign to METRO all contracts, permits, rental agreements, and licenses to which COUNTY is a party, the assignment to be

effective January 1, 1994, or upon obtaining the consent of the other parties thereto, whichever occurs later. Upon the effective date of assignment, these contracts, permits, rental agreements, and licenses shall be subject to the management and control of METRO, or Metro ERC, as Metro shall designate. METRO shall perform all obligations of COUNTY as set forth in the assigned contracts and shall not permit any contract to be defaulted by action or inaction.

E. Multnomah County Recreation Fund

Effective January 1, 1994, COUNTY will transfer to METRO all funds less current obligations contained within the Multnomah County Recreation Fund generated by, or attributed to the County Facilities. Said funds shall include all revenues attributable to the County Facilities, now or in the future, from whatever source. COUNTY represents, and warrants, that all funds currently contained within the Multnomah County Recreation Fund are properly contained within that fund in full compliance with all applicable laws and regulations. By way of example and not as a limitation, transfer of funds under this Agreement shall include the current balances of dedicated trust funds or accounts held by the Parks Division, including the Blue Lake Outdoor Performing Arts Stage Fund, the Oxbow Park Nature Center Fund, the Willamina Farmer Trust Fund, and the Tibbetts Flower Fund, provided, however, that those funds shall be used exclusively for their dedicated purposes, and in accordance with the terms of any applicable trust documents. Metro shall maintain any special trust funds or accounts in accordance with the requirements of all applicable public budgeting laws.

1. Retention for Incurred Expenses. COUNTY shall retain a maximum of \$100,000 to pay expenses incurred prior to January 1, 1994, but not yet paid. By March 1, 1994, COUNTY shall provide METRO with an accounting of all expenses paid and shall forward any remaining balance to METRO. COUNTY acknowledges that liabilities for Multnomah County Recreation Fund expenditures incurred through December 31, 1993, remain the responsibility of the COUNTY. Payroll, invoices and bills for goods and services incurred prior to January 1, 1994, and consistent with the existing Recreation Fund Budget and Special Trust Fund or account agreements shall be forwarded to the COUNTY for payment. COUNTY agrees to promptly pay all such liabilities and expenses incurred prior to January 1, 1994. COUNTY agrees to hold METRO harmless from liability for Recreation Fund, Special Trust Fund and account expenditures incurred through December 31, 1993. Any expenses incurred prior to January 1, 1994, are to be paid out of the \$100,000 retained to pay such expenses. It is agreed that should an expense incurred prior to January 1, 1994, or a revenue earned or received at any time, be received after the final transfer of funds, the COUNTY will forward the expense or revenue to METRO within 15 days of receipt of any such times and METRO will be responsible to take appropriate action.

2. Natural Areas Acquisition and Protection Fund. The parties agree that maintaining the purpose and integrity of the County's Natural Areas Acquisition and Protection Fund is of the highest importance. The parties agree that the Natural Areas

Acquisition and Protection Fund shall be maintained for its stated purpose, in accordance with Multnomah County Resolution No. 93-338 (attached as Exhibit 2). It is agreed by the parties that the proceeds from any further sales of the property known generically as "the Edgefield property" or "Edgefield Manor" shall be placed within the Natural Areas Acquisition and Protection Fund, consistent with Multnomah County Resolution No. 93-338.

3. Expenditures from Natural Areas Acquisition and Protection Fund. The COUNTY and METRO will cooperate to develop an annual budget proposal for the Natural Areas Fund, to be presented and adopted by the Board of County Commissioners in their annual budget process. The budget approved by the Board of County Commissioners for the Natural Areas Fund shall be consistent with purposes and priorities as identified in the Multnomah County Natural Areas Protection and Management Plan. The COUNTY shall fully reimburse METRO for expenses incurred by METRO for those portions of the Natural Areas Fund budget to be implemented by METRO, including compensation and benefits for COUNTY personnel transferred to METRO whose compensation is currently budgeted out of the fund. Prior to the expenditure of funds for acquisition of land or other easements, METRO shall consult with the COUNTY and receive Board of County Commissioners approval of the acquisition. The Board of County Commissioners shall not withhold approval of acquisitions and expenditures which are consistent with the purposes contained in the Natural Areas Protection and Management Plan.

4. Capital Improvements/ADA Compliance. The parties agree that the COUNTY shall complete and carry out any currently budgeted capital improvements and/or ADA compliance projects planned for the COUNTY facilities, regardless of whether funds for such improvements/projects are budgeted in the Multnomah County Recreation Fund or elsewhere in the COUNTY's budget. COUNTY shall complete these improvements/projects by transferring the appropriate budgeted funds to Metro upon the effective date of this Agreement, unless the Transition Team agrees upon an alternative method of completion.

F. Metro Regional Parks/Expo Fund

1. Effective no later than January 1, 1994, METRO shall establish a new recreation fund as part of the METRO budget, known as the Metro Regional Parks/Expo Fund. All funds formerly in the Multnomah County Recreation Fund shall be transferred to the Metro Regional Parks/Expo Fund. All revenues attributable to the County Facilities, from whatever source, shall be placed within the Metro Regional Parks/Expo Fund. The Metro Regional Parks/Expo Fund shall be spent only on the operation, management, marketing, maintenance, and improvement of the County Facilities, which shall include any overhead or central services charges which METRO attributes to the County Facilities for provision of services by METRO or Metro ERC.

2. In no event shall METRO be required to fund and/or subsidize the County Facilities or the Metro Regional Parks/Expo Fund with funds from any other METRO program, activity, or fund, provided, however, that METRO may, in its sole discretion, and,

excepting any Neighborhood Parks, transfer METRO funds to the County Facilities or the Metro Regional Parks/Expo Fund, whenever it determines that it is in the regional interest to do so. In the event that METRO does transfer METRO funds to the County Facilities or the Metro Regional Parks/Expo Fund, METRO may transfer such funds back to METRO whenever and in such a manner as it sees fit. METRO may charge a reasonable rate of interest for METRO funds transferred to the County Facilities or the Metro Regional Parks/Expo Fund. METRO may transfer funds from one COUNTY facility to another as it sees fit. However, no funds from any other METRO program, activity or fund shall be used for maintenance and operation of any Neighborhood Parks identified in Exhibit 1.

G. Money Transfers, Accounting, and Auditing

1. Receivables. COUNTY hereby assigns to METRO as of January 1, 1994, all COUNTY accounts receivable and other receivables existing as of that date or thereafter accruing which pertain to the County Facilities.

2. Adjustments Following Audit. A portion of COUNTY's official independent audit for FY 1993-94 shall cover all COUNTY operations for the entire period ending December 31, 1993. On completion and acceptance by COUNTY of the portion of the official COUNTY independent audit covering COUNTY for FY 1993-94, adjustment shall be made in the amounts of any funds and receivables transferred pursuant to this Agreement as indicated by the audit so as to bring the amounts retained by COUNTY with respect to any funds applicable to the County Facilities to zero. In the event of excess transfers to METRO, METRO shall refund the amount of the excess to COUNTY as appropriate. In the event of deficient transfers to METRO, COUNTY shall transfer the amount of the deficiency to METRO for use as provided herein. COUNTY shall encourage its auditors to complete the portion of the audit covering the County Facilities as quickly as possible. Any dispute between the parties regarding funds to be transferred shall be resolved pursuant to Section 5 of this Agreement.

3. Event and Concession Bank Accounts. To the extent that COUNTY maintains in its name, or in the name of any of the County Facilities, bank accounts into which COUNTY deposits event- and concession-related revenues, from which it pays event- and concession-related expenses including amounts owing to COUNTY from the event sponsors and concessionaires, and from which it pays the balance after expenses to the event sponsors and concessionaires, on January 1, 1994, ownership of the accounts shall be transferred to METRO, or the accounts may be closed and the account balances transferred to new accounts opened by METRO or Metro ERC, or some comparable change may be made, as determined by METRO. COUNTY shall execute whatever documents are necessary to accomplish the change.

4. Financial Reporting. For financial reporting purposes the parties agree that METRO will be the primary government for financial reporting of the activities covered under this Agreement and transferred to METRO as defined in Governmental Accounting

Standards Board (GASB) Statement 14. While only EXPO is currently contemplated for management by the Metro ERC component unit of METRO, to avoid future uncertainty regarding the status of any functions transferred, the following states the facts of the transfer (as outlined in GASB Statement 14):

- (a) METRO appoints all members of Metro ERC, pursuant and subject to Chapter 6 of the Metro Code.
- (b) METRO is able to impose its will, as defined in GASB Statement 14, on Metro ERC for operations of EXPO, which includes budgetary, financial, and other management controls.
- (c) Upon the date of transfer, METRO is solely responsible for any financial benefit or burden from the operations and management of the EXPO by Metro ERC.
- (d) All functions transferred to METRO as part of the Agreement which are not managed by Metro ERC are not legally separate entities and METRO holds all the corporate powers as defined in GASB Statement 14, paragraph 15. As such, these functions are to be reported as part of METRO'S primary governmental financial activity.

H. EXPO/Multnomah County Fair

1. EXPO shall be managed and operated by METRO by and through its Metropolitan Exposition-Recreation Commission, subject to whatever changes the Metro Council may from time to time make in the management, operation, or existence of its Metropolitan Exposition-Recreation Commission.
2. METRO shall assume responsibility for the EXPO master plan process begun by COUNTY. This shall include implementation of the "Portland Exposition Center Facilities Plan," prepared by COUNTY, to the extent feasible as determined by further studies, further METRO/Metro ERC planning efforts, and by the availability of resources for implementation.
3. COUNTY represents and warrants to METRO (a) that the current arrangements surrounding the Multnomah County Fair, the Multnomah County Fair Board, and Multnomah County, which, inter alia, require the Fair to pay a fee for the use of EXPO, are lawful, proper, and in full compliance with the provisions of any agreements, deeds, duties, or contracts, express or implied, which exist regarding the Fair or EXPO, and (b) that Multnomah County has full authority to enter into and carry out this Intergovernmental Agreement insofar as EXPO, the Multnomah County Fair, and all other County Facilities are concerned. The provisions of Section 3(M)(1) shall include any claims made by or on behalf of the Multnomah County Fair, the Multnomah County Fair Board, any users of the Fair, or

any parties claiming contractual rights, including claims of any third party beneficiaries, with respect to EXPO, the Fair or the COUNTY's past, present, or future actions with respect to EXPO or the Fair. The Multnomah County Fair shall continue to be the sole and exclusive responsibility of COUNTY. METRO shall continue to make EXPO space and expertise available for the Multnomah County Fair, through a contract(s) with the Multnomah County Fair Board. COUNTY may specify the dates for the fair. COUNTY shall give METRO reasonable notice of such dates consistent with normal business practice.

4. Both the COUNTY and METRO recognize the value of the County Fair to the community and are committed to the future success of the County Fair. Based on the Fair's historical relationship to EXPO, during and for the calendar years of 1994 and 1995 METRO agrees to the following: (a) METRO shall not charge the Fair rent for the use of EXPO; (b) the Fair may maintain its current storage area at EXPO in a manner substantially similar to existing historical practice; (c) METRO shall provide the Fair with staff support services for set-up, breakdown, facility maintenance, and consulting by permanent full-time METRO or Metro ERC employees at no charge, but will pass through any out-of-pocket expenses incurred in connection with the Fair, in accordance with standard Metro ERC policies and practices; (d) Metro Parks staff shall provide greenhouse space, labor, and planting to the Fair at no charge, in a manner substantially similar to existing historical practice; (e) in the event that COUNTY hires a Fair Manager, METRO shall provide office space at EXPO without rental charge; (f) during the Fair any net concession or parking revenue at the Fair shall be considered revenues of the Fair. In the event that the COUNTY hires a Fair Manager, or other personnel to assist with the Fair, those positions shall be the exclusive responsibility of the COUNTY, and shall be funded in all respects by the COUNTY. Continuation of any special considerations granted to the Fair in this paragraph shall be jointly reviewed by the COUNTY and METRO within the framework of negotiations toward PHASE II transfer of ownership.

I. Park Facilities, Cemeteries, Natural Areas, and Glendoveer Golf Course

All park facilities, natural areas, cemeteries, and golf courses transferred pursuant to this Agreement shall be incorporated into a new Metro Parks and Greenspaces Department, to be established, operated, and managed by METRO; provided, however, that these facilities may be combined for operations purposes with other programs, projects, or operations, as determined to be appropriate by METRO, provided that METRO shall notify COUNTY prior to any major realignments or reorganizations.

J. Personnel

Effective January 1, 1994, all staff presently budgeted in the County Recreation Fund shall be transferred to METRO. METRO agrees that all COUNTY employees transferred to METRO by this Agreement shall be held harmless from any layoffs or reductions in force directly related to the City of Portland/METRO/Oregon Arena Corporation agreement. All COUNTY employees transferred to METRO by this Intergovernmental Agreement shall be

permitted to transfer any accrued vacation time and any accrued sick time with them to METRO, to the extent and in the manner permitted by ORS 236.610(2). COUNTY shall be responsible for any obligations which might exist with respect to accrued compensation time or personal leave, as well as with respect to accrued vacation time in the event that any employee elects not to transfer over 80 hours of vacation time pursuant to ORS 236.610(2). COUNTY shall pay to METRO an amount determined to be the cash equivalent of the amount of vacation time transferred by each employee, in addition to any other funds to be transferred by COUNTY to METRO pursuant to this Agreement. METRO shall provide space in its new Metro Regional Center for the Parks administrative staff transferred as part of this Intergovernmental Agreement. This Intergovernmental Agreement is not intended to benefit any individual, employee, group of employees, corporation, or other legal entity other than METRO and the COUNTY. This Intergovernmental Agreement shall not be deemed to vest any rights in, nor shall it be deemed to be enforceable by, any third party in any proceeding whatsoever. It is the specific intention of the COUNTY and METRO that the rights, if any, of any employees transferred under this Intergovernmental Agreement shall be governed exclusively by ORS 236.610 to 236.650 and adjudicated via the procedures provided by those statutes and no other.

K. User Fees

METRO shall have the sole responsibility and authority to set user fees for any or all of the County Facilities except that METRO shall not increase user fees for County Facilities prior to July 1, 1994, without the joint agreement of the COUNTY and METRO.

L. Excise Tax

METRO shall have the sole responsibility and authority to exact an excise tax on all programs and activities comprising, or taking place at, the County Facilities, except that METRO shall not increase or impose such an excise tax prior to July 1, 1994, without the joint agreement of the COUNTY and METRO. Any excise tax receipts shall not be restricted to the benefit of the County Facilities, but shall be used for any public purpose deemed appropriate by METRO.

M. Indemnification

1. COUNTY, to the maximum extent permitted by law and subject to and within the limits of the Oregon Tort Claims Act, ORS 30.260 to 30.300, shall defend, indemnify and save harmless METRO, Metro ERC, and their officers, employees, and agents from and against any and all liabilities, damages, claims, demands, judgments, losses, costs, expenses, remedial actions, fines, suits, and actions, whether arising in tort, contract, or by operation of any statute, including the Workers' Compensation laws, including but not limited to attorneys' fees and expenses at trial and on appeal, relating to or resulting from any claim based on any act or occurrence that takes place prior to January 1, 1994, arising from the operations of the County Facilities. COUNTY's duty of indemnification shall extend to any

pollution condition, contamination, fuel leak, discharge, release or hazard which occurred or originated prior to January 1, 1994, or is the result of conditions which were created prior to January 1, 1994.

2. METRO, to the maximum extent permitted by law, subject to and within the limits of the Oregon Tort Claims Act, ORS 30.260 to 30.300, shall defend, indemnify and save harmless COUNTY, and its officers, employees, and agents from and against any and all liabilities, damages, claims, demands, judgments, losses, costs, expenses, remedial actions, fines, suits and actions, whether arising in tort, contract, or by operation of any statute, including the Workers' Compensation laws, including but not limited to attorneys' fees and expenses at trial and on appeal, relating to or resulting from any claim based on any act or occurrence that takes place on or after January 1, 1994, arising from the operations of the County Facilities by METRO or Metro ERC. METRO's duty of indemnification shall extend to any pollution condition, contamination, fuel leak, discharge, release or hazard which occurred or originated on or after January 1, 1994, or is the result of conditions which were created on or after January 1, 1994. Provided, however, that during PHASE I of this Agreement, METRO's duties of indemnification and defense shall be limited to the amount transferred by COUNTY to METRO as provided in Section 3(F)(1).

3. The foregoing indemnification, defense, and hold harmless provisions are for the sole and exclusive benefit and protection of METRO, Metro ERC, and COUNTY, and their respective officers, employees, and agents, and are not intended, nor shall they be construed, to confer any rights on or liabilities to any person or person other than METRO, COUNTY, and their respective officers, employees, and agents.

N. County Ordinances/Services

1. All COUNTY resolutions, executive orders, procedures, or rules governing, restricting, or regulating the use of the County Facilities in force and effect on January 1, 1994, shall remain in force and effect with regard to the County Facilities until superseded or repealed by any ordinance, resolution, executive order, procedure or rule duly adopted or promulgated by METRO, subject, however, to any restrictions contained in paragraphs K and L. In the case of EXPO, METRO may delegate its authority to supersede or repeal previous COUNTY directives to Metro ERC. COUNTY shall cooperate and assist METRO in the implementation of any METRO action to supersede or repeal previous COUNTY directives that may require COUNTY action to amend COUNTY ordinances.

2. METRO shall have full power and authority to enforce any COUNTY ordinances, resolutions, executive orders, procedures, or rules governing, restricting, or regulating the use of the County Facilities, to the full extent that COUNTY possesses such authority. In the case of EXPO, METRO may delegate its enforcement authority to Metro ERC.

3. Notwithstanding any other provisions herein, COUNTY shall continue to provide any services, including but not limited to, health-related or law enforcement services, that it has previously provided to the County Facilities, including but not limited to the provision of inmate labor services, in at least the same manner and to the same extent that such services were provided prior to transfer. COUNTY may bill METRO for the cost of such services only to the extent that COUNTY bills other COUNTY programs for the cost of such services. In addition, the COUNTY shall continue to pay property assessments on County Facilities and shall continue its annual contribution to the Oregon Historical Society, for the operation of the Bybee-Howell House, until implementation of PHASE II (Transfer of Ownership). Provided, however, that METRO shall pay the impending sewer assessment and property taxes for Glendoveer Golf Course out of the County Recreation Fund transferred to METRO. During PHASE I of this Agreement, COUNTY shall provide space for cemetery personnel, including garage and storage space, at no charge.

4. The Multnomah County Parks Advisory Committee shall continue in its present capacity until such time as METRO creates a Regional Parks Advisory Committee. It is anticipated by the parties that the current Multnomah County Parks Advisory Committee shall become an important part of any future Regional Parks Advisory Committee.

O. Transition Team

To ensure a smooth transition of services, a Transition Team will be established consisting of the Director of Environmental Services from Multnomah County, a representative of the County Chair, the Deputy Executive Officer of METRO, the Metro Council Administrator, and the General Manager of the Metro ERC facilities. This team will be responsible for information sharing among the agencies, resolution of minor contract disputes, and coordination of services. This Transition Team will meet as needed until PHASE II of this Agreement.

P. Reporting Requirements

METRO shall provide the Director of Environmental Services with a written report on activities within the County Facilities on a quarterly basis. This report shall include a financial status on the COUNTY programs, a summary of activity level at each facility, and a brief narrative of unusual or important issues or situations that have occurred during the reporting period. This report is due to the COUNTY no later than October 25, January 25, April 25, and July 25.

In addition, METRO shall advise the Director of Environmental Services in writing immediately in the event of fee changes, ordinance revisions, significant organizational changes within COUNTY programs, and/or major changes in policy which affect County Facilities or programs.

Q. Neighborhood Parks

The Neighborhood Parks shall be transferred to Metro in accordance with this Agreement for operational and management purposes only. It is understood that the level of maintenance for Neighborhood Parks shall not exceed that provided by the COUNTY at the time of transfer, except as may be required by law. The provisions of Section 8, PHASE II, Transfer of Ownership, shall not be construed so as to apply to any Neighborhood Parks. It is anticipated by the parties that operation, management, and possibly, ownership of the Neighborhood Parks shall be transferred by COUNTY to the City of Portland, or some other entity. METRO shall cooperate with any COUNTY directives regarding appropriate transfer of Neighborhood Parks' operation, management, and/or ownership. At all times, METRO's operation and management of any Neighborhood Parks shall be pursuant to this Intergovernmental Agreement, and shall be fully compensated. METRO may direct any surplus resulting from the operation and management of the other County Facilities towards the cost of operating, managing, and otherwise maintaining the Neighborhood Parks. In the event that any surplus resulting from the operation and management of the other County Facilities is insufficient to cover the cost of operating, managing, and otherwise maintaining the Neighborhood Parks, METRO shall be fully reimbursed for said costs by COUNTY. METRO may, in its discretion, establish a separate Neighborhood Parks Account within the Metro Regional Parks/Expo Fund referred to in Section 3(E), in order to assure proper segregation of Neighborhood Parks costs.

SECTION 4

RECORDS AND INFORMATION

A. County Records Requested by Metro/Metro ERC

If requested by METRO or Metro ERC, and to the extent permitted by law, COUNTY shall provide to METRO or Metro ERC either the originals or copies of any records in its possession regarding the County Facilities, including any records in any electronic format. The requesting party shall reimburse the provider for the reasonable costs of providing the records or copies thereof, if billed by the provider. All original records provided under this subsection shall remain the property of the provider, even though in the possession of Metro ERC or METRO. Metro ERC and METRO shall not destroy or otherwise dispose of the original records without the prior written consent of the provider.

B. Records and Information to be Provided in Advance of Effective Date

In addition to any records requested by METRO or Metro ERC, COUNTY shall provide the following records and information as soon as possible, and in no event later than December 31, 1993:

1. A specific list of all funds to be transferred, their financial history, current fund balance, and restrictions on usage and collection, if any.
2. An inventory of all fixed assets, including depreciation schedule and book value.
3. An inventory of all personal property to be transferred, including any maintenance agreements.
4. A list of all current contracts applicable to the County Facilities, including but not limited to service, vendor, and exhibitor contracts, with copies attached.
5. A compilation of all policies, ordinances and regulations which govern the operations of the County Facilities.
6. A list of any unwritten agreements, practices, or understandings which customers of the County Facilities may expect to be continued.
7. A list of all staff to be transferred, including payroll records, general ledger account balances, current COUNTY classifications, job descriptions, and any current assignments.
8. A list of current or foreseen assessments against property.
9. Any estimates or studies, complete or incomplete, of any structural improvements needed or recommended for the County Facilities, including any safety recommendations.
10. A list of all services provided by the COUNTY to the County Facilities by other COUNTY departments or divisions, and any internal COUNTY charges imposed for such services.
11. A description of any known environmental hazards or exposures, including but not limited to underground fuel tanks, PCBs, and asbestos.

## SECTION 5

### DISPUTE RESOLUTION

#### A. Exhaustion of Dispute Resolution Process Required

Neither party shall resort to litigation to enforce any of the terms of this Agreement unless and until the dispute resolution process established in this section has been completed,

provided, however, that a party may institute litigation in a court of competent jurisdiction to require a party to participate as provided herein.

**B. Procedure**

In the event of a dispute arising under this Agreement between the parties, the parties shall first attempt to resolve the dispute by negotiations with each other in good faith. In the event that such negotiations do not provide a mutually-agreeable settlement, either party may initiate the following dispute resolution process:

1. The initiating party shall give written notice of initiation of dispute resolution proceedings to the Metro Executive Officer, to the County Chair, and to a person mutually agreed to by the Metro Executive Officer and the County Chair. The three together shall constitute the Dispute Resolution Committee. The notice shall identify the dispute as to which the dispute resolution process is being initiated.

2. Not later than fifteen (15) days after receipt of the notice of initiation, each party to this Agreement may submit a written statement to the Dispute Resolution Committee stating the party's position on the dispute.

3. Not later than thirty (30) days after notice of initiation, the Dispute Resolution Committee shall decide on a resolution of the dispute and shall notify the parties to this Agreement of the resolution. Decisions of the Dispute Resolution Committee shall be by majority vote.

4. Decisions of the Dispute Resolution Committee shall be final and binding on the parties unless, within 60 days of receipt of the decision of the Committee, the governing board of either party by duly adopted resolution gives written notice of its rejection of the decision.

## **SECTION 6**

### **REMEDIES**

In the event a party fails to comply with any provision of this Agreement, then any other party shall be entitled to any remedy available at law or in equity, provided that the party has first exhausted its remedies under Section 5 of this Agreement. The termination of this Agreement shall not prevent a party from receiving any additional remedy not inconsistent with the events specified to occur on termination.

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## SECTION 7

### TERMINATION

#### A. Termination by Mutual Agreement

The parties may terminate this Agreement at any time prior to PHASE II, Transfer of Ownership, by mutual written agreement. The procedure on termination by mutual agreement shall be determined by the termination agreement.

#### B. Automatic Termination

In the event that the parties do not reach a mutual written agreement for PHASE II, Transfer of Ownership, by January 1, 1996, this Agreement shall terminate effective June 30, 1996. On the effective date of the termination, the events described in subsection (D)(1-9) of this Section shall occur.

#### C. Unilateral Termination

In the absence of a signed written agreement among the parties hereto then in existence for PHASE II, Transfer of Ownership, or a signed written termination agreement pursuant to paragraph A of this section, then COUNTY or METRO may, by duly adopted resolution of its governing body, initiate termination of this Agreement and thereafter give notice of termination. The termination shall be effective six (6) months after the date of the notice. On the effective date of the termination, the events described in subsection (D)(1-9) of this Section shall occur.

#### D. Termination Procedure

In the event of termination, subject to compliance with any statutory requirements, the following shall occur:

1. After the date of termination, all revenues from and expenditures for the County Facilities shall be treated as COUNTY revenues and expenditures, except to the extent that METRO has transferred METRO or Metro ERC funds to the County Facilities;

2. All METRO and Metro ERC accounts receivable and other receivables related to County Facilities existing on the termination or thereafter accruing shall be assigned to COUNTY, and COUNTY shall be responsible for payment of all METRO and Metro ERC accounts payable and other obligations existing as of that date or thereafter related to the County Facilities;

3. All monies in METRO and Metro ERC funds related to County Facilities shall become the property of COUNTY and shall be transferred to COUNTY, with the exception of any METRO or Metro ERC funds which have been transferred to the County Facilities, said transfer shall be accomplished in substantially the same manner in which funds were transferred to METRO originally;

4. All event and concession bank accounts related to the County Facilities shall be transferred to COUNTY subject to all outstanding checks or authorized demands for payment issued by METRO prior to the termination date;

5. All records related to County Facilities shall become the property of COUNTY and shall be transferred to COUNTY;

6. COUNTY shall comply with ORS 236.610 et. seq., to the extent applicable, with respect to all personnel whose positions are included in the budgets for County Facilities;

7. All contracts, permits, rental agreements, and licenses or portions thereof related to the County Facilities, or fixed assets or personal property funded by the County Recreation Fund shall be assigned to COUNTY;

8. All other charges, allocations, and transfers as are necessary or desirable to the proper operation of County Facilities and Other Facilities operated by METRO or Metro ERC shall be carried out in good faith by the parties hereto; and

9. Any dispute between the parties regarding carrying out the requirements of subsection (D)(1-9) of this Section shall be resolved pursuant to Section 5 of this Agreement.

## SECTION 8

### PHASE II TRANSFER OF OWNERSHIP

#### A. General

This Agreement contemplates that, effective no later than July 1, 1996, COUNTY shall transfer to METRO full ownership of those of the County Facilities which METRO has determined are public cultural, trade, convention, exhibition, sports, entertainment, or spectator facilities, or parks, open spaces, or recreational facilities of "metropolitan concern." Neighborhood Parks identified in Exhibit 1 are intended to be transferred to the City of Portland during PHASE I, and in no event shall they become the property of METRO. Upon the effective date of a signed written agreement for PHASE II TRANSFER OF OWNERSHIP, the provisions of PHASE I consolidation shall no longer apply, except

those of which may be specifically incorporated or referenced in any PHASE II agreement, or those provisions which by their specific terms go beyond PHASE I.

**B. PHASE II Procedure**

1. No later than July 1, 1995, METRO shall determine, by whatever procedures are required by the 1992 Metro Charter, if any, which of the County Facilities are public cultural, trade, convention, exhibition, sports, entertainment, or spectator facilities, or parks, open spaces, or recreational facilities of "metropolitan concern," such that full METRO-ownership of such facilities would be appropriate under the 1992 Metro Charter.

2. No later than July 1, 1995, METRO and COUNTY shall initiate negotiations for full transfer of ownership of those facilities identified as appropriate for METRO ownership and control. METRO and COUNTY shall bargain in good faith over the transfer of ownership of such facilities.

3. In the event that a signed mutual written agreement for PHASE II, Transfer of Ownership, has not been entered into by January 1, 1996, this Agreement shall terminate as provided in Section 7(B).

## **SECTION 9**

### **AUTHORITY TO MAKE DECISIONS**

This Agreement provides for various approvals, waivers, executions of further documents implementing this Agreement, or other decisions or actions to be made or taken on behalf of COUNTY and METRO hereunder. Except as otherwise specifically provided in this Agreement, such approvals, waivers, executions, or other decisions or actions shall be deemed made or taken if in writing and executed by the County Chair, if on behalf of COUNTY, and by the Metro Executive Officer, if on behalf of METRO. Any amendments to this Agreement and any PHASE II, Transfer of Ownership, agreement must be approved by the County Commission and the Metro Council.

## **SECTION 10**

### **ASSIGNMENT AND TRANSFER**

Except as provided herein, this Agreement and any property to be transferred by its terms, shall not be assignable or transferable by either party or by operation of law except with the written consent of the other party. A consenting party may impose any conditions on the consent that are reasonable under the circumstances. The assignee or transferee shall be bound by all the provisions of this Agreement. The assignor or transferor shall not be

relieved of any obligations under this Agreement unless the written consent of the other party expressly so provides. Provided, however, that assignment and transfer of the facilities identified as Neighborhood Parks to the City of Portland is contemplated by this Agreement, and the parties shall cooperate to accomplish such assignment and transfer.

## SECTION 11

### ATTORNEYS' FEES

In the event of a suit or action to interpret or enforce the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorneys' fees and expenses, including the cost of depositions and expert witnesses, at trial and on appeal of the suit or action, in addition to all others sums provided by law.

## SECTION 12

### NOTICE

Any notice provided for hereunder shall be deemed sufficient if deposited in the United States mail, certified mail, return receipt requested, postage prepaid, addressed either to the following address or to such other address or addresses as the recipient shall have notified the sender of by notice as provided herein:

METRO:                      Executive Officer  
Metro  
600 N.E. Grand Avenue  
Portland, OR 97232-2736

With a copy to:

Clerk of the Council  
Metro  
600 N.E. Grand Avenue  
Portland, OR 97232-2736

Office of General Counsel  
Metro  
600 N.E. Grand Avenue  
Portland, OR 97232-2736

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COUNTY: County Chair  
Multnomah County  
1120 S.W. Fifth Avenue, Rm. 1410  
Portland, OR 97204

With a copy to:

County Counsel  
Multnomah County  
1120 S.W. Fifth Avenue, Rm. 1530  
Portland, OR 97204

Notice hereunder shall be deemed received three (3) days after mailing as provided in this Section or on actual delivery to the addressee, whichever occurs first.

### SECTION 13

#### EXECUTION OF FURTHER DOCUMENTS

In order to complete implementation of the provisions of this Agreement, it may be necessary for METRO, Metro ERC, and COUNTY to execute further documents enabling implementation. Each of them shall execute such further documents and take such other steps as are reasonably necessary or appropriate to implementing the provisions hereof.

### SECTION 14

#### WAIVERS

The waiver of any provision of this Agreement, whether a waiver as to a particular application of the provision, or as to all applications of the provision, shall be binding on the party making the waiver only if in writing and executed by the party. Unless otherwise expressly provided in the written waiver, the waiver by a party of performance of a provision as to a particular application shall not be a waiver of nor prejudice the party's right to require performance of the provision as to other applications or of any other provision.

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## EXHIBIT 1

### NATURAL AREAS AND REGIONAL FACILITIES

1. Mason Hill
2. Sauvie Island Boat Ramp
3. Multnomah Channel
4. Bybee-House & Howell Park
5. Bell View Point
6. M. James Gleason Memorial Boat Ramp
7. Broughton Beach
8. Beggars Tick Marsh
9. Glendoveer Golf Course & Fitness Trail
10. Blue Lake Park
11. Gary and Flagg Islands
12. Oxbow Park
13. Indian John Island
14. Larch Mountain Corridor
15. Chinook Landing marine Park
16. Sandy River Access Points
17. Smith & Bybee Lakes Addition
18. Phillippi Property

### NEIGHBORHOOD PARKS

1. Dickenson
2. North Powellhurst
3. Lynchview
4. Gilbert Heights
5. Parklane
6. Lincoln
7. Gilbert Primary
8. East Lynchwood

### PIONEER CEMETERIES

1. L. Jones
2. Grand Army of the Republic
3. Lone Fir
4. Multnomah Park
5. Brainard
6. Columbia Pioneer
7. White Birch
8. Escobar
9. Gresham Pioneer
10. Mt. View Stark
11. Douglass
12. Pleasant Home
13. Powell Grove
14. Mt. View Corbett

### PUBLIC TRADE & EXHIBITION FACILITY

1. Portland Exposition Center

**SECTION 15**

**ENTIRE AGREEMENT**

This Agreement is the entire agreement between the parties. This Agreement shall not be modified except by a written amendment dated and approved and signed by a party hereto then in existence. No party shall be bound by any oral or written statement or course of conduct of any officer, employee, or agent of the party purporting to be this Agreement.

APPROVED AS TO FORM

MULTNOMAH COUNTY

\_\_\_\_\_  
Multnomah County Counsel

By: \_\_\_\_\_  
Beverly Stein, County Chair

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

APPROVED AS TO FORM

METRO

\_\_\_\_\_  
Metro General Counsel

By: \_\_\_\_\_  
Rena Cusma,  
Executive Officer

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

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