



AGENDA

Lincoln County Board of Commissioners

Board of Commissioners
225 West Olive Street
Room 110
Newport, OR 97365
Phone: 541.265.4100
FAX: 541.265.4176

Wednesday, November 30, 2016

9:30 a.m.

**Commissioner's Meeting Room
Lincoln County Courthouse
225 W. Olive Street, Room 108
Newport, Oregon**

I. CALL TO ORDER

II. ROLL CALL - ESTABLISHMENT OF A QUORUM

III. RECOGNITION/PROCLAMATION

- A. Resolution #16-30-11 A Proclaiming "World AIDS Day" December 1, 2016 in Lincoln County – Presented by Rebecca Austen, Gretchen Gantz, and OCCC Representative

IV. ADOPTION OF CONSENT CALENDAR

A. Minutes of Board of Commissioners Meeting

1. Order #11-16-299 Minutes of the Joint Work Session with Waldport City Council and Lincoln County Board of Commissioner June 1, 2016

B. Commission Appointments and Resignations

1. Order #11-16-300 Changes in Membership to the Housing Authority of Lincoln County
2. Order #11-16-301 Changes in Membership to the Lincoln Community Health Council
3. Order #11-16-302 Changes in Membership to the Starr Creek Special Road District

C. License Applications or Renewals

D. Tax Foreclosure, Right-of-Way, Sales and Deeds

1. Order #11-16-303 Execution of Land Sales Installment Contract for Certain Tax Foreclosed Lincoln County Property to Justin Haft

E. General Budget Resolutions

F. Acting as Governing Body of County Wide Service Districts

G. Documents and Recording Matters in the Commissioners Journal

1. Order #11-16-304 Memorandum of Understanding Between Oregon Affordable Housing Assistance Corporation and Lincoln County for the Hardest Hit Fund (Terms: Effective 11/8/16)
2. Order #11-16-305 Contract Addendum - Contract for Professional Services Between Lincoln County and the Building Department, LLC/ Northwest Code Professionals for Inspection Services (Terms: Effective 11/3/16; On Call - Rate \$90 per hour)
3. Order #11-16-306 Agreement #148130 between InterCommunity Health Plans and Lincoln County Health & Human Services for Technical Assistance on Chronic Disease and Tobacco Prevention. (Terms: Effective 07/01/2016 through 06/30/2017; Not to Exceed \$56,405)

H. Execution of Documents

V. PUBLIC HEARING

VI. DECISION/ACTION

- A. Order #11-16-307 Assignment of Lincoln County Ambulance Service Area (ASA) 4 (Waldport Area) for the period of January 1, 2017 through June 30, 2021 – Presented by: Sheriff Landers and Kristin Yuille
- B. Ordinance #490 Amendment to Ordinance #487 and Lincoln County Code Section 4.405 through 4.460 Short Term Rental of Dwelling Units and Declaring an Emergency – Presented by: Wayne Belmont
- C. Name Change for the Portion of US Hwy 20 to be Transferred to Lincoln County as part of US Hwy 20 PME Project – Presented by: Wayne Belmont

VII. DISCUSSION/INFORMATION

- A. Purchase of Property for Health and Human Services Respite Housing, NW Cottage Street, Newport - Presented by: Cheryl Connell and Wayne Belmont**
- B. Agreement Between the State of Oregon through its Department of Revenue and Lincoln County Authorizing the Department of Revenue to collect Taxes Related to Marijuana Sales on Behalf of the County and Distribute the Proceeds to the county For a fee to be Calculated – Presented by: Jerry Herbage**

VIII. BOARD OF COMMISSIONERS AS THE GOVERNING BODY OF COUNTY-WIDE SERVICE DISTRICTS

IX. REPORTS

- A. Elected Officials/Department Directors/Program Coordinators and Consultants**
 - 1. Commissioners

X. CONSTITUENT INPUT (Limited to five minutes per constituent)

XI. EXECUTIVE SESSION

- A. Pursuant to ORS 192.660(2)(h) to discuss litigation matters**

XII. ADJOURNMENT

XIII. OTHER SCHEDULED MEETINGS AND APPOINTMENTS OF THE BOARD

Wednesday, December 7, 2016 – 9:30 a.m. – Board of Commissioners Meeting in the Commissioner’s Meeting Room, Lincoln County Courthouse Room #108, 225 West Olive Street, Newport.

For special physical, language or other accommodations at Board's meeting, please contact the Board at 265-4100 (voice) or dial 7-1-1 Relay Service and include e-mail as soon as possible, but at least 48 hours before the meeting.

1 **WHEREAS, In** recognition of the fact that impacting this global epidemic requires renewed and
2 unified worldwide, national and local efforts, the World AIDS Campaign theme for World Aids
3 Day 2016 is "Access Equity Rights Now". The aim is that every person regardless of age,
4 gender, race/ethnicity, sexual orientation, gender identity or socio-economic circumstance, will
5 have unfettered access to high quality, life-extending care, free from stigma and discrimination.
6 We want to assure equal access to health care, HIV/AIDS treatment and renewed efforts to
7 prevent this disease.

8
9 **NOW, THEREFORE,** we, the Lincoln County Board of Commissioners, recognize "World
10 AIDS Day" observed on December 1, 2016, and encourage all citizens to understand the
11 importance of the activities and observances that occurred during this week designed to increase
12 awareness and understanding of HIV/AIDS as a global challenge, to prevent the further spread of
13 the disease, to take part in HIV/AIDS prevention activities and programs, and to promote
14 sustained action to reduce new HIV infections and to assure life-saving treatment for everyone
15 living with HIV/AIDS.

Dated this 30th day of November 2016.

LINCOLN COUNTY BOARD OF COMMISSIONERS

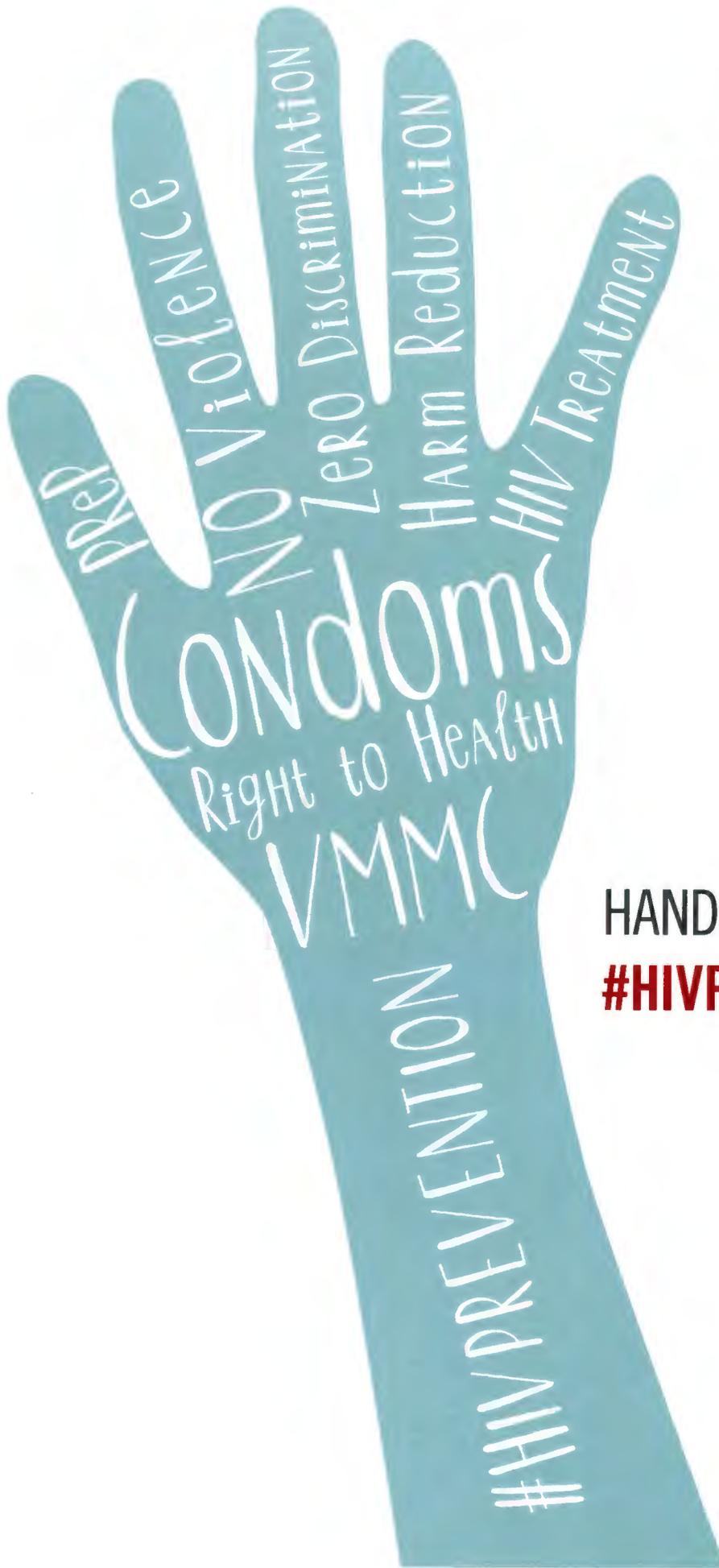
BILL HALL, Chair

TERRY N. THOMPSON, Commissioner

DOUG HUNT, Commissioner

WORLD
AIDS DAY

1 DECEMBER 2016



HANDS UP FOR
#HIVPREVENTION

HIV infection in Oregon

Introduction

HIV/AIDS remains an important public health problem in Oregon. From 1981 through 2014, 9,692 HIV infections were diagnosed in Oregon residents; approximately 42% (4,070/9,692) of them have died (Figure 1). From 2010 to 2014, approximately 240 new diagnoses were reported annually in Oregon.

Oregonians living with HIV/AIDS

The Oregon Health Authority estimates that 6,605 people with diagnosed HIV infection were living in Oregon at the end of 2014. This total includes approximately 2,026 people who lived outside of Oregon at the time of their diagnosis. Of the 6,605 living residents, 50% (3,279/6,605) lived in Multnomah County at the end of 2014. Eighty-eight percent (5,803/6,605) of Oregon residents living with HIV/AIDS were male, 77% (5,050/6,605) were White and the average age was 48 years. Men who have sex with men (MSM) and MSM who injected drugs accounted for 84% (4,883/5,803) of male residents living with HIV/AIDS.

Oregon HIV facts at a glance as of Dec. 31, 2014:

- 6,605 people were estimated to be living with HIV/AIDS in Oregon, including people who moved to Oregon after their HIV diagnosis. Fifty percent (3,279/6,605) of those living with HIV/AIDS in Oregon lived in Multnomah County at the end of 2014.
- From 2010 to 2014, approximately 240 people were diagnosed with HIV infection annually in Oregon.
- From 1981 to 2014, 9,692 Oregon residents were diagnosed with HIV infection; 42% (4,070/9,692) died.
- During the past decade, an average of 93 persons with HIV died in Oregon each year, some from other primary causes of death.

HIV cases diagnosed in Oregon and HIV cases who have died in Oregon, 1981–2014

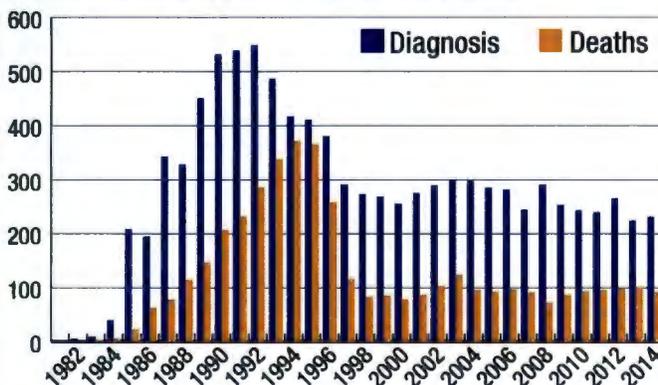


Figure 1

New HIV diagnoses in Oregon, 2005–2014

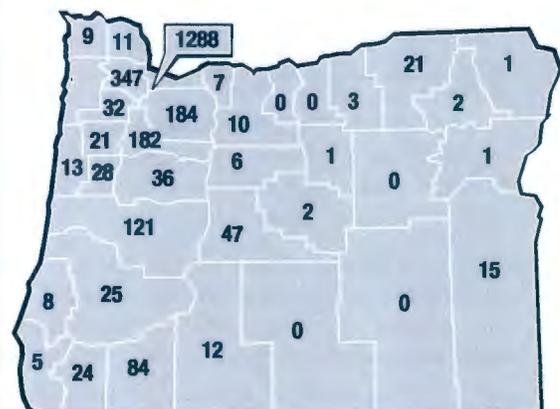


Figure 2

Recent trends (2005–2014)

Half (1,288/2,556) of cases diagnosed with HIV/AIDS in Oregon during 2005–2014 were Multnomah County residents (Figure 2). Statewide, men were approximately seven times more likely than women (12.0 vs. 1.6 per 100,000) to be diagnosed with HIV. The average age at diagnosis was 37.7 for males (Figure 3) and 36.6 for females.

New diagnosis rates were nearly five times higher among Blacks and African Americans than Whites (27.4 vs. 5.9 per 100,000). The rate of new diagnoses for Hispanics was 1.8 times higher than for White non-Hispanics (10.7 vs. 5.9 per 100,000). Other races and ethnicities accounted for roughly 6% of all diagnoses (Figure 4).

Among males, MSM accounted for 70% of cases diagnosed during 2005–2014 (1,580/2,253). Other transmission categories included men who use injection drugs (5%), MSM who also use injection drugs (10%) and men who likely or possibly* acquired their infection from heterosexual transmission (4%). Approximately 10% of recent male diagnoses lacked sufficient information to assign a transmission category. Among female cases, injection drug users accounted for 22% of cases and women who likely or possibly† acquired their infection by heterosexual transmission accounted for 77% of cases. The remainder included cases that lacked sufficient information for classification.

* Includes men who affirmed having sex with women and denied injection drug use, transfusions or transplants during the time the blood supply was not being adequately screened for HIV.

† Includes women who affirmed sex with men and denied injection drug use, sex with men or transfusions or transplants during the time the blood supply was not being adequately screened for HIV.

HIV infection among males by age at diagnosis, Oregon 2005–2014

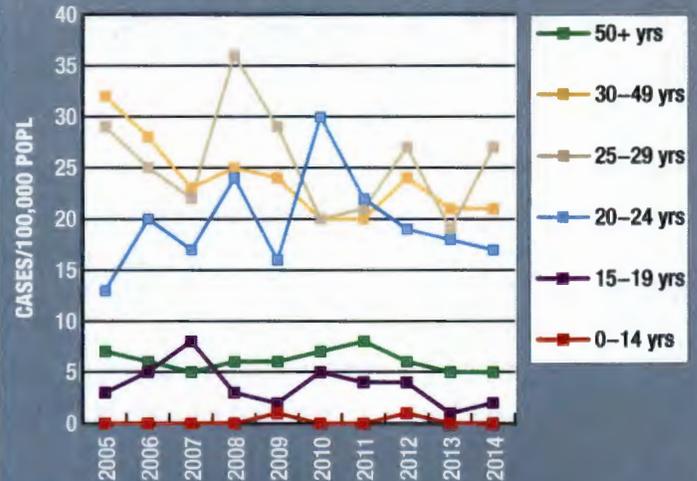


Figure 3

HIV infection by race/ethnicity, Oregon 2005–2014

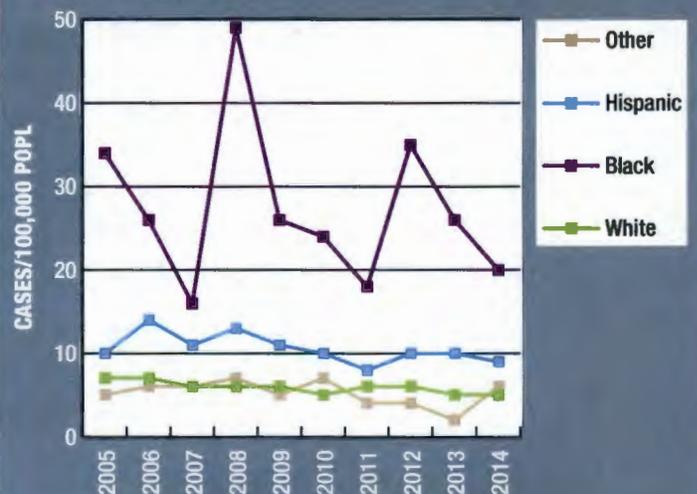


Figure 4

Epidemiologic resources:

Oregon Health Authority, HIV/AIDS epidemiology: <https://public.health.oregon.gov/DiseasesConditions/CommunicableDisease/DiseaseSurveillanceData/HIVData/Pages/index.aspx>

Centers for Disease Control and Prevention: www.cdc.gov/hiv.

This document can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request this publication in another format or language, contact the Public Health Division at 971-673-1222, 971-673-0372 for TTY.

1 (6) The proposed quality of service to be provided by the applicant; and

2 **WHEREAS** the Board has unanimously determined that ASA 4 should be assigned
3 to Pacific West Ambulance for the period of January 1, 2017 through June 30, 2021;
4 therefore, in accordance with LCC Chapter 7 and the Lincoln County Ambulance Service
5 Area Plan,

6 **IT IS HEREBY ORDERED THAT:**

7 (1) Lincoln County Ambulance Service Area 4 (Waldport Area) is assigned to
8 Pacific West Ambulance for the period of January 1, 2017 through June 30, 2021;

9 (2) A copy of this order shall be forwarded to Pacific West Ambulance; Sheriff
10 Landers; Emergency Services Virginia Demaris, Assistant County Counsel KristinYuille,
11 and each member of the Lincoln County Ambulance Service Review Committee.

12

DATED this 30th day of November, 2016.

LINCOLN COUNTY BOARD OF COMMISSIONERS

BILL HALL, Chair

TERRY N. THOMPSON, Commissioner

DOUG HUNT, Commissioner

1 **BEFORE THE BOARD OF COMMISSIONERS**
2 **FOR LINCOLN COUNTY, OREGON**

3 ORDINANCE # 490

4
5
6 **Amendment to Ordinance #487 and Lincoln County Code Section 4.405 through 4.460**
7 **SHORT TERM RENTAL OF DWELLING UNITS and declaring an emergency.**
8

9
10 WHEREAS by Ordinance # 487 adopted August 3, 2016 and made effective December
11 1, 2016 the Board created sections 4.405 through 4.460 SHORT TERM RENTAL OF
12 DWELLING UNITS in the Lincoln County Code (LCC); and

13 WHEREAS in preparation for implementation of the licensing program authorized by
14 the new code sections, the County desires to clarify one section of the code and delegate
15 authority to the licensing authority to make rules, procedures, forms and practices consistent
16 with the code to implement the program; and

17 WHEREAS the provisions of Ordinance #487 go into effect December 1, 2016 with the
18 licensing program initiated starting that date. Therefore an emergency exists to provide this
19 clarification of the code prior to that date.

20 **NOW, THEREFORE, IT IS HEREBY ORDAINED AS FOLLOWS:**

21 **SECTION 1.**

22 Sections 2 and 3 of this Ordinance are added to and made a part of LCC Chapter 4,
23 Business Regulation.

24 **SECTION 2.**

25 Section 4.415 of the LCC is amended as follows:

26 4.415 Definitions

27 For the purpose of LCC 4.405 through 4.460

28 (1) "Accessory structure or accessory use" means a structure or use incidental and
29 subordinate to the main use of a property and located on the same lot as the main use.

30 (2) "Contact Person" means:

1 (a) The owner(s) of the dwelling unit; or
2 (b) The agent of the owner(s), authorized to act for the owner(s) as designated on
3 the license application.

4 (c) **The contact person, whether the owner or an agent, must be located within**
5 **Lincoln County, and cannot use the dwelling unit(s) licensed under this Chapter as**
6 **the basis for compliance with this provision unless the owner or agent resides at that**
7 **location.**

8 (3) "Dwelling Unit" means:

9 (a) A single unit providing complete, independent living facilities for one or more
10 persons including permanent provisions for living, sleeping, eating, sanitation and only one
11 cooking area.

12 (b) A "single family dwelling" means a structure of which all habitable portions
13 thereof are connected structurally and comprise one dwelling unit, including but not limited
14 to factory built dwellings, mobile homes and site built dwellings.

15 (c) A "two family dwelling" means a structure of which all habitable portions
16 thereof are connected structurally and comprise two dwelling units including but not limited
17 to factory built dwellings, mobile homes and site built dwellings.

18 (d) A "multi-family dwelling" means a structure of which all habitable portions
19 thereof are connected structurally and comprise three or more dwelling units, including, but
20 not limited to, factory built dwellings, mobile homes and site built dwellings.

21 (4) "License" means a short term rental license issued by Lincoln County and
22 maintained in good standing by the Owner(s) or agent of the Owner(s) in accordance with
23 the provisions of the Lincoln County Code.

24 (5) "Owner(s)" means the person or people, partnership, corporation, association, or
25 other legally recognized person(s) or entity holding title to the dwelling unit in accordance
26 with law.

27 (6) "Person" includes any natural person(s), firm, partnership, association, social or
28 fraternal organization, corporation, business or any other group or combination acting as a
29 unit.

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Note: Matter in **boldfaced** type in an amended section is new; matter in [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.

1 (7) "Rental Agreement" means any agreement, whether or not in writing, granting
2 the use of a dwelling unit to a person. Use of a dwelling unit by a recorded owner or other
3 person or persons without monetary consideration shall not be considered to be a rental
4 under this chapter.

5 (8) "Rent" means the authorization of use of a dwelling unit granted to a person(s) in
6 exchange for monetary consideration.

7 (9) "Renter" is a person who rents a short term rental.

8 (10) "Short Term Rental" means the renting of a dwelling unit (including any
9 accessory guest house on the same property) to any person(s) on a day to day basis or for a
10 period of time of up to thirty (30) consecutive nights.

11 (11) "Sleeping Area" is a room or other space within a dwelling unit designed,
12 intended or used for sleeping. Roll out beds, fold out couches, or other temporary sleeping
13 accommodations including tents and recreational vehicles shall not be considered a sleeping
14 area, and may not be used to increase the allowed occupancy of a short term rental as
15 provided in LCC 4.404 through 4.460. Determinations as to the number of sleeping areas
16 within a dwelling unit are reserved to the Lincoln County Licensing Authority and all
17 determinations are final.

18 **SECTION 3.**

19 **4.456 Delegation of Authority**

20 **The Lincoln County Licensing Authority is delegated the authority and**
21 **responsibility to adopt rules, procedures, forms and practices consistent with the overall**
22 **intent of this Chapter, to implement, administer, and operate the licensing program for**
23 **the County.**

24 **SECTION 4.**

25 **This Ordinance, being necessary for the preservation and protection of the public**
26 **safety and general welfare of Lincoln County, and being necessary to clarify Ordinance**
27 **#487 duly adopted by the County which takes effect December 1, 2016, an emergency is**
28 **declared to exist and this Ordinance shall take effect December 1, 2016.**

DATED this 30th day of November, 2016.

LINCOLN COUNTY BOARD OF COMMISSIONERS

Bill Hall, Chair

Terry Thompson, Commissioner

Doug Hunt, Commissioner

ATTESTED TO:

APPROVED AS TO FORM:

Tanya Graham, Recorder

Wayne Belmont, County Counsel

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Note: Matter in **boldfaced** type in an amended section is new; matter in [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.



County Counsel's Office
225 West Olive Street
Room 110
Newport OR 97365
Phone: (541) 265-4108
Fax: (541) 265-4176

Wayne Belmont
County Counsel
Kristin Yuille
Asst. County Counsel
Jerry Herbage
Asst. County Counsel
Janet Harrison
Paralegal

Memorandum

To: Board of Commissioners
Cheryl Connell, Health and Human Services Director

From: Wayne Belmont
County Counsel *Wayne Belmont*

Date: November 30, 2016

Re: Purchase of Property for Crisis Respite Housing and Services

This Memorandum outlines the purchase agreement for the duplex property located at 37 and 41 NW Cottage Street in Newport, Oregon. You have discussed this property previously and been advised of the housing and service purposes by Health and Human Services Director Cheryl Connell. As she reported last week, she along with her staff and Commissioner Hall, met with area neighbors to explain the Department's plans for the property and to discuss any questions and concerns. I will not provide any detailed additional information on the use of the property since that has already been provided.

Purchase Agreement and Conditions

The purchase agreement with the property owners¹, contingent on Board review and final action to complete the purchase, contains the following terms and conditions:

Subject Property: Duplex located at 37 and 41 NW Cottage Street, Newport, Oregon. Further described as Tax Lots 8900 and 9200 of Lincoln County Assessor's Map 11-11-08 BA. See attached vicinity map.

Purchase Price: **\$315,000** (\$5,000 earnest money with remainder due at closing). These funds come from Health and Human Services dedicated funding (no general fund or additional financing involved).

¹ Full Agreement available from County Counsel's Office

Additional Conditions: County was afforded due diligence to examine property, including title, condition of building, environmental inspections, and other normal contingencies (e.g. zoning, land use, utilities). County also planned meeting with neighbors before completing transaction.

County retained services of two professional firms²: (1) to conduct professional building inspection and (2) to conduct environmental/health inspections (lead based paint, asbestos, etc.). Neither report identified issues which would cause staff to recommend not proceeding with the purchase of the property.

Health and Human Services confirmed with City of Newport Planning that proposed uses for the property are consistent with allowed uses under City Codes. There is a sewer line utility easement across the property that we are aware of, but it will not cause any interference with intended use of the property.

Health and Human Services has met with neighbors.

Next Steps

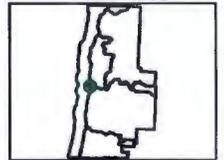
(1) Due Diligence: We have completed our due diligence inquires and no issues have been raised that would warrant terminating the purchase. With your permission, today, we will release our Buyer's contingencies as being met.

(2) Wednesday, December 7, 2016 at the regular Board Meeting at 9:30 we will place on the Board's Agenda a Decision / Action Item for the Board to formally consider and act on the purchase of this property. It will include an Order authorizing completion of the purchase and delegating authority to Counsel authority to complete the transaction closing / escrow on December 9, 2016. Counsel will review and authorize escrow instructions, conveyance documents (statutory warranty deed), prorations and related actions.

² Those full reports are also available from County Counsel's Office

HHSD Purchase
Geographic Info System

Taxlot
City
Taxlot



Lincoln County government site only. Use for any other purpose is entirely at the risk of the user. This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the suitability of the information.

1 in. = 225 ft.



11/29/2016



MARIJUANA TAX COLLECTION AGREEMENT

This Marijuana Tax Collection Agreement (“Agreement”) is entered into between the State of Oregon, acting by and through its Department of Revenue (the “Department”) and [insert City of /County of], (“[City/County]”), under the authority of ORS 305.620.

In consideration of the conditions and promises hereinafter contained, it is mutually agreed by the parties that the Department shall supervise and administer, according to the terms and conditions set forth in this Agreement, the Local Tax on sales of marijuana items by Marijuana Retailers authorized under ORS 475B.345 and approved by the voters of [City/County].

(1) Definitions. As used in this Agreement the following terms have the meanings ascribed to them:

(a) “Confidential Information” means the information on Local Tax returns administered pursuant to ORS 305.620, any information in the reports required under Sections 8 and 9 of this Agreement from which information about a particular Local Taxpayer is discernable from the report due to a small number of Local Taxpayers in [City/County] or similar factors, and any other information exchanged between the Department and [City/County] related to this Agreement, that is confidential under ORS 314.835.

(b) “Fees” means collectively the Administrative Services Fee, the Business Fee and the Core Systems Replacement Fee described in Section 5 of this Agreement.

(c) “Local Government” means a city or county that has entered into a form of this agreement with the Department under the authority of ORS 305.620 for the Department to collect Local Taxes authorized under ORS 475B.345.

(d) “Local Tax” or “Local Taxes” means the Marijuana Tax imposed by [City/County], together with any additional interest or penalties provided for by statute or the Department’s rules; it does not include any additional penalties or fees that [City/County] may assess against its Local Taxpayers.

(e) “Local Taxpayer” means a licensed Marijuana Retailer located in the taxing jurisdiction of [City/County].

(f) “Marijuana Retailer” has the meaning given in ORS 475B.015.

(g) “Marijuana Tax” means the tax imposed on sales of marijuana items by Marijuana Retailers pursuant to ORS 475B.345.

(h) “Marijuana Taxpayer” means a licensed Marijuana Retailer that is subject to the Marijuana Tax imposed by a Local Government.

(i) “Ordinance” means the ordinance adopted by the governing body of [City/County] and approved by the voters of [City/County] on [insert election date], a copy of which is attached hereto as Exhibit B and by this reference incorporated herein.

(2) **General Administration.** The Department shall be responsible for all aspects of Local Tax administration, including, but not limited to, adopting administrative rules; auditing returns; assessing deficiencies and collecting the Local Tax and penalties and interest under applicable statutes, including but not limited to ORS 305.265, ORS 305.220, and ORS 314.400; making refunds; holding conferences with Local Taxpayers; handling appeals to the Oregon Tax Court; issuing warrants for the collection of unpaid taxes; determining the minimum amount of Local Tax economically collectible; and taking any other action necessary to administer and collect the Local Taxes. The Department has adopted rules addressing the requirements for paying taxes with currency and other matters related to the taxation of marijuana under ORS chapter 475B. [City/County] understands and agrees that such rules will be applied to Local Taxpayers.

(3) **Level of Service.** In performing its duties, the Department may in its sole discretion determine what action shall be taken to enforce provisions of the law and to collect the Local Tax. In exercising its discretion, the Department shall provide a level of services that are comparable to the level of services it provides in the administration of the State of Oregon marijuana tax laws and the collection of such taxes owed to the State of Oregon. If the Department deems it necessary to vary substantially from this standard, the Department shall first notify [City/County] of the need and obtain [City’s/County’s] consent. The Department shall provide all forms necessary for implementation of the Local Tax, including forms for Marijuana Tax returns, exemptions and refunds.

(4) **Transfer of Taxes to [City/County].** Beginning at the end of the first full quarter after execution of this Agreement, the Department shall remit to [City/County] the amount of Local Taxes collected in the preceding quarter less amounts withheld to pay the Department’s Fees and other costs as described in this Agreement within 60 days of the return due date for the quarter. The Department shall notify [City/County] if, because of inability to move funds electronically or otherwise through the banking system, a force majeure event described in Section 26 of this Agreement or other exigent circumstance, the Department is unable to transfer the Local Tax collected to [City/County] as provided in this Section. In that event, the Department shall provide an estimate, if possible, of when it expects to be able to transfer the Local Taxes collected to [City/County]. The Department may enter into an agreement with another state government agency to fulfill the requirements of this Section 4, provided that said government agency can comply with the requirements of this section.

(5) **Costs.** In order to recover its costs to collect and transfer the Local Tax as provided in this Agreement the Department shall be paid the following three fees:

(a) “Administrative Services Fee”: Pays for the establishment and maintenance of financial systems needed to administer and distribute Local Taxes. The fee shall be calculated annually as a percentage of the equivalent of 60 hours of work conducted for the Department of Revenue by the Department of Administrative Services, divided among the Local Governments in proportion to the number of Marijuana Taxpayers in each Local Government.

(b) “Business Fee”: Pays for the Local Tax administration activities set forth in this Agreement. The fee shall be calculated as a percentage of the Department’s Business Division annual expenses for the administration of all marijuana taxes, with the total fee increasing in direct proportion to the number of Local Taxpayers. The total amount per Local Taxpayer billed to [City/County] under the Business Fee shall not exceed 0.05 percent of the Department’s Business Division expenses for the administration of all marijuana taxes;

(c) “Core Systems Replacement fee”: Charged only one time after execution of this Agreement and calculated as a flat fee per Local Taxpayer. The total Core Systems Replacement Fee shall not exceed two hundred dollars (\$200.00) per Local Taxpayer in the first full quarter following execution of this Agreement.

FOR EXAMPLE, in a hypothetical with the following assumptions:

250 Marijuana Taxpayers

50 Local Taxpayers in the City of Mainville

2 Local Taxpayers in the City of Middletown

Business Division’s Marijuana Expenses: \$500,000 per year

Hourly DAS rate: \$99/hour

The fees would be calculated as follows:

Administrative Services Fee = $(\$99/\text{hour} * 60 \text{ hours}) / 250 \text{ Marijuana Taxpayer} =$
\$23.76 per Local Taxpayer per year

Business Fee = $\$500,000 \text{ in marijuana expenses per year} * 0.05\% =$ \$250 per
Local Taxpayer per year

Core Systems Replacement Fee = \$200 per Local Taxpayer, one time

City of Mainville, year 1: $(\$23.76 \text{ Administrative Services Fee} + \$250 \text{ Business Fee} + \$200 \text{ Core Systems Replacement Fee}) * 50 \text{ Local Taxpayers} =$ \$23,688 in costs

City of Mainville, subsequent years: $(\$23.76 \text{ Administrative Services Fee} + \$250 \text{ Business Fee}) * 50 \text{ Local Taxpayers} =$ \$13,688 in costs

City of Middletown, year 1: (\$23.76 Administrative Services Fee + \$250 Business Fee + \$200 Core Systems Replacement Fee) * 2 Local Taxpayers = \$947.52 in costs

City of Middletown, subsequent years: (\$23.76 Administrative Services Fee + \$250 Business Fee) * 2 Local Taxpayers = \$547.52 in costs

(e) In addition to the Fees described above, the Department may withhold or invoice [City/County] for the Department's costs to administer extraordinary services not described in this Agreement related to the Local Tax; such extraordinary costs may include, without limitation, requests for audits from [City/County] that exceed the scope of the Department's normal audit procedures, requests for research or advice from the Department or the Oregon Department of Justice attorneys, or specially appointed counsel, regarding the Local Tax.

(f) If the Department determines that its costs cannot be covered by the maximum fees outlined in this Section 5, the Department will notify [City/County] of the amount by which the Department has determined the Fees must increase. If the Department and [City/County] do not agree upon a Fee increase and related amendment to this Agreement, then this Agreement may be terminated by either party in accordance with Section 16 of this Agreement.

(g) The Department shall not collect more in fees than its costs to administer the Local Tax, per ORS 305.620(5). It is using the above formula in the interests of producing its best estimate of costs.

(6) Withholding for Fees and Rebate. The Department shall withhold from the Local Taxes collected and each transfer to [City/County] an amount equal to four percent (4%) of the Local Taxes collected. In the first quarter of each calendar year the Department will reconcile the amounts withheld in the previous year with the total fees assessed, and provide such reconciliation in the Department's annual report described in Section 9 of this Agreement. If the amount withheld in a calendar year exceeds the amount of the Department's Fees, the Department will rebate the balance of the Local Taxes withheld to [City/County] by the end of the first quarter following the year of withholding. If the amount withheld does not cover the Department's Fees for the preceding year, the amount of the shortfall will be withheld from subsequent transfers of Local Taxes collected until the Department's Fees are fully paid, or in its discretion the Department may invoice [City/County] for the unpaid amount of the Department's Fees.

(7) Recovery of Overpayments. If the amount of Local Taxes paid to [City/County] under this Agreement, exceed the amount to which [City/County] is entitled, the Department may, after notifying [City/County] in writing, withhold from later payments due [City/County] under this Agreement, such amounts, over such periods of time, as are necessary to recover the amount of the overpayment.

(8) Department Quarterly Reports. Beginning with the first full calendar quarter after the execution of this Agreement and continuing each calendar quarter thereafter, within sixty (60) days after the due date for quarterly Local Tax returns, the Department shall provide [City/County] with a report indicating the amount of Local Taxes collected, any extraordinary costs assessed, the amount withheld under Section 6 of this Agreement and the cumulative amount of delinquent Local Taxes for each Marijuana Retailer in [City/County's] jurisdiction. The information in this report must be treated as potentially revealing Confidential Information, and shall be protected as described in Section 15. [City/County] should make all efforts to prevent Confidential Information from being released. The Department and [City/County] shall disclose any non-confidential information in a report when required to do so by law, including the Oregon Public Records Law, ORS 192.410 to 192.505.

(9) Department Annual Reports. In the first calendar quarter of each year, the Department shall make a written annual report of the preceding calendar year to [City/County] showing the total amount of Local Taxes collected, refunds paid, the expenses of administering and collecting the Local Tax, and other pertinent information. The report shall show the total amount withheld by the Department under Section 6 of this Agreement, and shall show the Department's expenses by its Fee categories. In such report, the Department shall also make recommendations concerning changes in Local Tax Ordinances, procedures, policies, Local Tax administration and related matters, as the Department deems necessary and appropriate. The information in this report must be treated as potentially Confidential Information, and shall be protected as described in Section 15. [City/County] should make all efforts to prevent Confidential Information from being released. The Department and [City/County] shall disclose any non-confidential information in the report when required to do so by law, including the Oregon Public Records Law, ORS 192.410 to 192.505.

(10) [City/County] Reports. Within sixty (60) days of the effective date of this Agreement, [City/County] shall provide the Department with a list of Local Taxpayers in its jurisdiction and a list of zip code areas that are within its jurisdiction for purposes of imposing the Local Tax. [City/County] shall provide an updated list of Local Taxpayers to the Department each calendar quarter thereafter. [City/County] shall review all reports and reconciliations provided by the Department and promptly notify the Department of any perceived errors or omission in such reports.

(11) Records Maintenance and Access. Each party shall maintain its records relevant to this Agreement, the Local Taxes and Local Taxpayers for the period of time specified and in the manner required under the document retention and archiving requirements applicable to it that are established under ORS 192.005 to 192.170. Upon written request, each party may examine the records of the other party at a time and location that is convenient and without extra cost to the holder to the records; provided, however, any requests for records made in connection with litigation or other efforts to collect the Local Tax shall be immediately provided in the time and manner requested.

(12) Ordinance and Notification of Changes. Contemporaneous with the execution of this Agreement, [City/County] shall provide a copy of the Ordinance to Department for incorporation into this Agreement as Exhibit B. In order to insure consistency in administration of the Local Tax, each party shall notify the other of any change in the Ordinance and any state or local regulations or rulings interpreting the Local Tax or the Ordinance, any changes in rates or changes in the [City's/County's] boundary at least ninety (90) days prior to the effective change, unless it is not legally possible to provide ninety (90) days' notice or both parties mutually agree to effect such changes in less than ninety (90) days. Each party shall notify the other of any change in administration of the Local Tax under this Agreement. The parties shall cooperate in amending the Ordinance or in seeking amendments to ORS 475B.345 or ORS 305.620 which they deem necessary.

(13) Information. The parties will cooperate in the exchange of information and making public announcements to facilitate effective administration of the Local Tax and maintain consistency in public announcements and information. Policy announcements, announcement of changes in the Ordinance, and all correspondence relating to public relations will be handled by [City/County]. The Department shall promptly notify [City/County] of any matter arising in the administration of the Marijuana Tax that would require any legislative change or affect [City/County's] policy, including any policy that relates to the amount of Local Tax collected. Nothing in this section shall prohibit the Department from conducting its own outreach activities to increase awareness and knowledge of local tax obligations.

(14) Limits and Conditions. To the extent limited by applicable provisions of Article XI of the Oregon Constitution or other governing law, and within the limits of the Oregon Tort Claims Act applicable respectively to the Department and [City/County], each party shall indemnify the other for damage to life or property arising from their respective duties and obligations under this Agreement, provided neither party shall be required to indemnify the other for any such liability arising out of a party's own negligent or wrongful acts.

(15) Confidentiality.

(a) Confidential Information may be disclosed only to [City/County] as principal, by the Department as its agency, for purposes of carrying out the administration of the Local Tax imposed by [City/County]. Requests for Confidential Information shall be made by [City/County] by giving not less than ten (10) days' notice to the Department, stating the information desired, the purposes of the request, and the use to be made of such information. If the compilation of information is not feasible, the Department shall so advise [City/County].

(b) ORS 314.840(3) requires that employees and representatives of [City/County] who receive Confidential Information must be advised in writing of the provisions of ORS 314.835 and 314.991(3), relating to the penalties for unlawful disclosure. Prior to being given access to Confidential Information, all [City/County] employees involved in the performance of this

Agreement must review the DOR Secrecy Clause and sign the DOR Secrecy Laws Certificate (substantially in the form of Exhibit A, attached hereto and by this reference incorporated herein) certifying the employee understands the confidentiality laws and the penalties for violating them. Annually thereafter, (on or before a date specified by the Department), such [City/County] employees must review and sign the latest versions of the Secrecy Clause and the Secrecy Laws Certificate. All signed Secrecy Laws Certificates must be immediately emailed to both the designated Department Authorized Representative (indicated below) and the Department's Disclosure Office (disclosure.office@oregon.gov). When the employee terminates employment with [City/County], [City/County] will forward the certificate to the Department's Disclosure Officer indicating the employee is no longer employed by [City/County]. A listing of every person authorized to request and receive Confidential Information identified in this Agreement will be sent to the following designated representative:

John Galvin, Marijuana Tax Program Manager, marijuanatax.DOR@oregon.gov

(c) Upon request and pursuant to the instructions of DOR, [City/County] shall return or destroy all copies of Confidential Information provided by DOR to [City/County], and [City/County] shall certify in writing the return or destruction of all such Confidential Information.

(d) The administrative rules implementing ORS 314.835 and ORS 314.840 as amended from time to time during the term of this Agreement, shall apply to this Agreement.

(16) Term. The term of this Agreement shall be from the date it is executed by all parties and until it is terminated by operation of law or by either party at its discretion upon at least ninety (90) days prior written notice. Prior to the termination date specified in written notice provided under this section or Section 17 below, [City/County] and the Department will continue to perform their respective duties and obligations of under this Agreement. After the termination date, the Department will cease all collection and other activities under this Agreement, unless prior to the termination date the Department and [City/County] agree in writing that the Department may continue actions that are pending before the Oregon Tax Court or the Oregon Supreme Court, or are being collected after judgment or stipulation. In addition, after the termination date the Department will continue to remit to [City/County] any Local Taxes received by the Department, after deduction of the Department's actual costs, until all matters pending on the date of termination have been resolved or collected. The Department will administer the Local Tax for [City/County] for each calendar quarter commencing after this Agreement is executed; provided, however, if this Agreement is fully executed on or before the 15th day of the calendar quarter, the Department will administer the Local Tax for the quarter in which this Agreement is executed.

(17) Default and Remedies. A party shall be in default under this Agreement if it fails to perform any of its duties and obligations under this Agreement, and fails to cure such

the amount of Local Tax owed by a Local Taxpayer, whether brought solely by the Department or in conjunction with [City/County] shall be brought solely in the Oregon Tax Court.

(24) Nonappropriation. The obligation of each party to perform its duties under this Agreement is conditioned upon the party receiving funding, appropriations, limitation, allotment, or other expenditure authority sufficient to allow the party, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, sections 7 or 10 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of each party.

(25) Survival. All rights and obligations of the parties under this Agreement will cease upon termination of the Agreement, other than the rights and obligations arising under Sections 14, 16 and 17, and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accruing to a party prior to termination.

(26) Force Majeure. Neither party is responsible for any failure to perform or any delay in performance of an obligation under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that party’s reasonable control. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligation under this Agreement.

(27) Counterparts. This Agreement may be executed in counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed constitutes an original.

(28) Merger. This Agreement and any exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements or presentations, oral or written, not specified herein regarding this Agreement.

Each party represents that this Agreement, when fully executed and delivered will constitute a legal, valid and binding obligation of the party in accordance with its terms, and that the person signing below is the authorized representative of the party with full power and authority to bind his/her principal to this Agreement.

Oregon Department of Revenue

City/County:

Name/Title:

Name/Title:

Signature:

Signature:

