

W.7.D.1.

AGENDA COVER MEMORANDUM

Agenda Date: December 15, 2004

DATE: November 29, 2004

TO: Board of County Commissioners

DEPARTMENT: Management Services

PRESENTED BY: Jeff Turk, Property Management Officer 2

SUBJECT: ORDER/IN THE MATTER OF AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A THREE YEAR LEASE AGREEMENT WITH THE LANE COUNTY EXTENSION SERVICE WITH REVENUES OF \$228,384 FOR SPACE AT 950 W. 13TH AVENUE, EUGENE

1. **PROPOSED MOTION:** THE BOARD OF COUNTY COMMISSIONERS MOVES TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE A THREE YEAR LEASE AGREEMENT WITH THE LANE COUNTY EXTENSION SERVICE WITH REVENUES OF \$228,384 FOR SPACE AT 950 W. 13TH AVENUE, EUGENE
2. **ISSUE/PROBLEM:** The Board had previously authorized a three year lease renewal (through June, 2007) with the Extension Service in June, 2004 with the renewal subsequently signed by a staff person from the Extension Service office and the County Administrator. Oregon State University (OSU), which oversees the Extension Service, recently informed the county that the staff person at the local office was not authorized to execute the agreement. A new lease agreement (as opposed to a renewal) has been executed by OSU and is being forwarded to the Board for approval to again authorize execution by the County Administrator.
3. **DISCUSSION:**

3.1 Background

The Extension Service has been leasing space in the building since the early 1980s. The lease agreement being proposed is essentially the same agreement which has been in effect since that time. OSU has asked for some minor changes to clarify indemnification and insurance language in the lease.

Terms of the lease agreement include the provision of maintenance, repair and janitorial services by the county as well as utilities (electricity, garbage, water). Rent will be adjusted during the second and third year of the lease based on changes in the Consumer Price Index with any rent increases capped at 5%. The lease also contains a 60 day termination clause by either party.

3.2 Analysis

The proposed rent represents a rate of \$.98/ sq. ft. which is a fair market value for the space and the services provided. This is a net rent to the county as the property will be exempt from property taxes.

The Extension Service has been an excellent tenant and has worked with the county and its budget limitations with respect to building maintenance, repairs and improvements.

Alternatives/Options

1. Enter into a 3 year lease renewal as proposed
2. Negotiate different terms as dictated by the Board

3.4 Recommendation

It is recommended that the County Administrator be authorized to execute a three year lease agreement with the Lane County Extension Service which is substantially similar to the attached agreement.

3.5 Timing

The current agreement expired June 30, 2004.

4. IMPLEMENTATION/FOLLOW-UP: Upon approval by the Board of County Commissioners, the County Administrator will execute a lease agreement within the given parameters.
5. ATTACHMENTS:
Board Order
Lease Agreement

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO. ORDER/ IN THE MATTER OF AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A THREE YEAR LEASE AGREEMENT WITH THE LANE COUNTY EXTENSION SERVICE WITH REVENUES OF \$228,384 FOR SPACE AT 950 W. 13TH AVENUE, EUGENE

WHEREAS the Lane County Board of Commissioners has previously authorized a three year lease renewal with the Lane County Extension Service pursuant to Order No. 04-06-09-03 and

WHEREAS said renewal agreement was not properly executed by said Extension Service and

WHEREAS the Lane County Board of Commissioners deems it to be in the best interest of Lane County to enter into a new lease agreement with the Lane County Extension Service (lessee), and

WHEREAS said lease agreement is beyond the authority of the County Administrator to execute without the Board's authorization

IT IS HEREBY ORDERED that the County Administrator is authorized to execute a three year lease agreement with the Lane County Extension Service (lessee) for approximately 6,500 sq. ft. of space located at 950 W. 13th Avenue, Eugene, with terms substantially similar to attached exhibit "A".

IT IS FURTHER ORDERED that the County Administrator is authorized to execute documents canceling any previously executed lease agreements with the Lane County Extension Service.

IT IS FURTHER ORDERED, that this Order shall be entered into the records of the Board of Commissioners of the County.

DATED this _____ day of _____, 2004

Bobby Green, Chair
Lane County Board of Commissioners

RECEIVED
JUN 12-6-04
[Signature]

IN THE MATTER OF AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A THREE YEAR LEASE RENEWAL AGREEMENT WITH THE LANE COUNTY EXTENSION SERVICE WITH REVENUES OF \$228,384 FOR SPACE AT 950 W. 13TH AVENUE, EUGENE

EXHIBIT "A"

Lease

This agreement, made and entered into effective the first day of July, 2004, by and between Lane County, a political subdivision of the State of Oregon, hereinafter called LESSOR, and The State of Oregon Acting By and Through the State Board of Higher Education on Behalf of Oregon State University, hereinafter called LESSEE.

Witnesseth:

For and in consideration of the covenants, agreements and stipulations herein contained on the part of the said LESSEE to be kept and faithfully performed by said LESSEE, the LESSOR does hereby lease to LESSEE, and the LESSEE hereby hires from the LESSOR, the real property described below and upon the following terms and conditions, to wit:

1. Premises. LESSOR hereby leases, lets and demises unto LESSEE and LESSEE does hereby take, rent and hire of and from said LESSOR for the term and rental as hereinafter provided, the following described premises ("Premises") situated in the City of Eugene, Lane County, Oregon, to wit: 6500 square feet of office area in the Extension Service Building of Lane County located at 950 West 13th Avenue, Eugene, Oregon (as described on Exhibit "A" attached hereto and by reference incorporated herein).
2. Term and Rental. The term of this lease shall be for a three-year period commencing July 1, 2004 and ending on midnight, June 30, 2007. Monthly rent payments ("Base Rent") for the first year of the Lease shall be \$6,344.00 (\$76,128.00 annually). Base Rent shall be due on the first day of each month. Effective July 1 of each succeeding year of the Lease, Base Rent shall be determined by multiplying the Base Rent by a fraction, the numerator of which shall be the Consumer Price Index (CPI) for the first half of the then current year and the denominator of which shall be 189.8, which is the CPI for the first half of 2004. As used herein, CPI shall mean the Consumer Price Index for All Urban Consumers ("CPI-U"), all items (1982-84 = 100), for Portland, Oregon as published by the United States Department of Labor, Bureau of Labor Statistics or any successor index thereto. Notwithstanding the above, no increase shall exceed five percent (5%) per year.
3. Tax Exemption. As provided in ORS 307.166, it shall be the responsibility of the LESSEE to file a claim for property tax exemption with the county assessor. The LESSOR shall not be responsible for any costs above the original terms of this lease.
4. Repairs. LESSOR shall be required or called upon, at LESSOR'S expense, to make all repairs, maintenance and improvements in or to any portion of the property, the subject of this lease, all of which shall be kept in good order, repair and condition by LESSOR throughout the term of this lease or any extension thereof, except the LESSOR shall not be obligated to make such repairs as may be required due to neglect or default of LESSEE, its agents, employees or an act of God.
5. Services. LESSOR shall furnish and pay for all public utilities, including lights, water, heat and sewer services used in connection with the Premises. Monthly telephone service and all

installation costs shall be the responsibility of LESSEE. The failure of LESSOR to furnish light, heat, or water services when such failure is caused by accident, strike or other causes beyond its reasonable control, shall not work an abatement of rent nor release the LESSEE from the prompt fulfillment of any of its covenants under the terms hereof unless such failure continues uncured for a period of thirty (30) days after written notice from LESSEE.

6. Compliance with Laws-Alterations. LESSEE covenants that it will make no unlawful, improper or offensive use of the Premises. LESSEE will not suffer or permit any strip or waste of the Premises nor make or suffer to be made any alterations to or upon the same without having obtained the written consent of LESSOR. LESSOR intends to regulate the installation of personal items within the Premises. LESSEE shall not permit the installation, by any method, of posters, pictures or other wall-hung objects, nor permit the installation of any ceiling-hung macramé hangers, unless approved by the LESSOR'S Building Maintenance Superintendent, such approval not to be unreasonably withheld, and the installation shall be made by LESSOR'S Facilities Maintenance personnel.
7. Prohibition Against Assignment. LESSEE shall have no right or power to assign this lease nor to underlet any portion of the Premises nor to grant any licenses for the use thereof.
8. Damage or Destruction of Building. If the Premises or any portion thereof shall be destroyed or damaged by fire or other cause, the LESSOR may at its option rebuild, repair or restore the same or such portion thereof as may be damaged and in the event this lease shall remain unaffected thereby, except that the rent or portion thereof shall be abated during the period of restoration or repair to the extent that the occupancy of said premises or the portion thereof affected by such casualty is interfered with. LESSOR shall promptly notify LESSEE of its intention to make or not to make such repairs or restoration. If the LESSOR elects not to repair the damaged premises, then the LESSEE may terminate this lease and in such event, any and all rights and liabilities to any by the parties hereto which might thereafter accrue hereunder shall thereupon cease, provided that in such event, any and all rights or liabilities which may have accrued at the time of such termination in favor of either of the parties shall remain in full force and effect, and that the rental received shall be forthwith paid covering the period subsequent to the expiration of the preceding calendar month, or the LESSEE to have credit to any advance rentals, as the case may be. In the event of such termination due to LESSOR's failure to rebuild or repair, the LESSOR shall refund to LESSEE any advance rental paid, less rentals earned.
9. Signs. LESSEE shall not display or affix any signs, pictures, advertisements or notices to any portion of the Premises without LESSOR's prior approval, such approval not to be unreasonably withheld, as to type and location of the signs.
10. Waiver of Subrogation. Neither LESSOR nor LESSEE shall be liable to the other for any loss arising out of damage to or destruction of the Premises or the building of which the Premises are a part or the contents thereof, when such loss is caused by any of the perils which are or could be included within or insured against by a standard form of fire insurance with extended coverage, including sprinkler leakage insurance, if any. All such claims against one another for any and all loss, however caused, hereby are waived. Said absence of

liability shall exist whether or not the damage or destruction is caused by the negligence of either LESSOR or LESSEE or by any of its respective agents, servants or employees. Each party shall fully provide its own property damage insurance protection at its own expense, and each party shall look to its respective insurance carriers for reimbursement of any such loss, and further, the insurance carriers involved shall not be entitled to subrogation under any circumstance.

11. Use of Common Facilities. LESSEE covenants that it and its agents and employees will not place any object in the halls or otherwise interfere with the use by others of facilities furnished by LESSOR for the use in common by LESSEE and other tenants in the building where the Premises are located.
12. Default. Provided always, and these presents are upon this condition, that if the rental provided for and in this lease shall be in arrears for a period of ten (10) days on any installment or if the said LESSEE neglects or fails to do or perform or observe any or either of the covenants or agreements herein contained, upon their part which are to be kept or performed, after then ten (10) days notice in writing of said breach, then and in any said cases the LESSOR or those having their estate in the premises may immediately or at any time thereafter and while said neglect or default continues and without notice or demand enter into and upon the premises or any part thereof in the name of the whole and repossess the same as of their former estate and expel the LESSEE and those claiming under it without being taken or deemed guilty in any manner of trespass without prejudice to any other right or remedy available to LESSOR at law or in equity, all of which rights and remedies shall be cumulative and not exclusive.
13. Option to Cancel. LESSOR or LESSEE shall have the option to cancel this lease or any renewal thereof by giving sixty (60) days notice in writing of its intention to do so.
14. Waiver. No waiver of any term, covenant or condition of this agreement shall be deemed a waiver of any subsequent breach of the same or any term of condition thereof.
15. Notices. Unless otherwise notified in writing, all notices to be given to LESSEE shall be given in writing personally to the Chairman of the Lane County Extension Service or depositing the same in the United States Mail with copy to Procurement and Construction Contracting, 644 SW 13th Street, Corvallis, OR 97333-4238, attention: Aaron D. Howell; and unless otherwise notified in writing, all notices to be given to LESSOR shall be given in writing personally or by depositing in the United States Mail, postage thereon prepaid, addressed to LESSOR, Lane County Property Management Division, 125 E. 8th Avenue, Eugene, OR 97401.
16. Quiet Enjoyment. LESSOR covenants and agrees that the LESSEE, upon paying the Base Rent in the manner herein specified and performing the terms, covenants and agreements herein contained on their part to be kept and performed, shall and may peaceably and quietly have, hold and enjoy the Premises for the terms aforesaid.

17. **Indemnification.** Subject to the limitations of Article XI § 7 of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 through 30.300), LESSEE shall indemnify, within the limits of and subject to the restrictions in the Tort Claims Act, LESSOR against any liability for personal injury or damage to life or property arising from LESSEE'S negligent activity under this Agreement provided, however, LESSEE shall not be required to indemnify LESSOR for any such liability arising out of the wrongful acts of LESSOR, its officers, employees or agents.
18. **Liability.** LESSOR agrees to be responsible for any damage or any third-party liability which may arise from its use or occupancy of the premises, subject to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260 through 30.300 and the Oregon Constitution Article XI, Section 10, to the extent of liability arising of the negligence of the LESSOR.

IN WITNESS WHEREOF, the parties hereto have executed this Lease effective as of the first day of July, 2004.

LESSEE:

The State of Oregon Acting By and
Through the State Board of Higher
Education on Behalf of Oregon State
University

By: _____

Aaron D. Howell, C.P.M., CPPO
Aaron D. Howell, C.P.M., CPPO
Manager, Procurement and Construction
Contracting (PaCC)/Contracts Officer

As: _____

LESSOR:

Lane County, a political subdivision of the
State of Oregon

By: _____

William VanVactor

As: _____