

W.4.E.1.

## AGENDA MEMORANDUM

Date: January 30, 2008  
Order Date: February 13, 2008

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**TO:** Board of County Commissioners

**DEPARTMENT:** Management Services

**PRESENTED BY:** Jeff Turk, Property Management Officer

**AGENDA ITEM TITLE:** IN THE MATTER OF AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A FOUR YEAR LEASE AGREEMENT WITH MICHELE BO VICTOR, PC FOR \$54,336 TOTAL REVENUE FOR OFFICE SPACE AT 540 OAK STREET, EUGENE (BUS BARN BUILDING)

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### I. MOTION:

TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE A FOUR YEAR LEASE AGREEMENT WITH MICHELE BO VICTOR, PC FOR \$54,336 TOTAL REVENUE FOR OFFICE SPACE AT 540 OAK STREET, EUGENE (BUS BARN BUILDING)

### II. AGENDA ITEM SUMMARY:

Property Management staff has negotiated a lease agreement with Ms. Victor for 970 square feet of office space located in the County owned Bus Barn building at 540 Oak St. (the County's child care facility is located in the building). The proposed lease rate is \$1,132 monthly (\$1.17/sq. ft.) with a four year term. Ms. Victor is an attorney and will use the office space for her law practice. The four year term of the agreement is beyond the authority of the CAO to execute without authorization from the Board.

### III. BACKGROUND/IMPLICATION OF ACTION:

#### A. Board Action and Other History.

The office space is located on the second floor of the Bus Barn building. The Bus Barn was acquired by the County in 1990 for the purpose of housing a child care facility for County and Forest Service employees. The child care center is located in the East half of the building. The West half has commercial office space and the County has leased this space since acquiring the property.

The space for the proposed lease has been vacant since June, 2007 when the prior tenant did not renew their lease. After initial attempts to market the space were not fruitful the services of METCO Realty were secured. METCO's fee is equal to one month's rent.

**B. Policy Issues.**

Pursuant to LM 21.420, the Management Services Dept. is responsible for negotiating lease agreements for County owned property.

**C. Board Goals.**

Leasing the office space is consistent with the Board's goals of maximizing use and revenue of County assets.

**D. Financial and/or Resource Considerations.**

Revenue from the lease will go to the General Fund of the County.

**E. Analysis.**

The \$1.17 per sq. ft. lease rate is below the \$1.20 per sq. ft. asking rate that was recommended and advertised by the realtor. Given Ms. Victor's agreement to a four year term, her excellent prior rental history and the minimal improvements the County will need to do to the office space, it was deemed that the \$1.17 rate would be acceptable to forward to the Board for consideration (the County will need to paint the office space prior to occupancy with the painting done by County facilities staff).

**F. Alternatives/Options.**

- a. Accept the lease as proposed.
- b. Reject the proposal and direct staff to make a counter proposal

**IV. TIMING/IMPLEMENTATION:**

The proposed lease calls for a start date of March 1, 2008.

**V. RECOMMENDATION:**

It is recommended that the Board authorize the CAO to execute the lease agreement as proposed.

**VI. FOLLOW-UP:**

Upon approval by the Board, the lease agreement will be processed for execution and the office space will be prepared for occupancy.

**VII. ATTACHMENTS:**

Board Order  
Lease Agreement

ORDER NO.

IN THE MATTER OF AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A FOUR YEAR LEASE AGREEMENT WITH MICHELE BO VICTOR, PC FOR \$54,336 TOTAL REVENUE FOR OFFICE SPACE AT 540 OAK STREET, EUGENE (BUS BARN BUILDING)

WHEREAS this matter now coming before the Lane County Board of Commissioners and said Board deeming it in the best interest of Lane County as lessor to enter into a revenue lease agreement for office space owned by Lane County at 540 Oak Street, Eugene; and

WHEREAS said lease agreement is beyond the authority of the County Administrator to execute without authorization from the Board to do so.

IT IS HEREBY ORDERED that the County Administrator be authorized to execute a lease agreement with Michele Bo Victor, PC substantially similar to attached exhibit "A".

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 \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Faye Stewart, Chair, Board of County Commissioners

APPROVED AS TO FORM

Date 2-5-08 lane county

  
OFFICE OF LEGAL COUNSEL

IN THE MATTER OF AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A FOUR YEAR LEASE AGREEMENT WITH MICHELE BO VICTOR, PC FOR \$54,336 TOTAL REVENUE FOR OFFICE SPACE AT 540 OAK STREET, EUGENE (BUS BARN BUILDING)

## **EXHIBIT "A"**

Standard Form of OFFICE BUILDING LEASE adopted by PORTLAND ASSOCIATION OF BUILDING OWNERS AND MANAGERS

### **OFFICE LEASE**

This lease is made by and between LANE COUNTY, a political subdivision of the State of Oregon as Lessor, and MICHELE BO VICTOR, P. C. Lessee.

Lessor hereby leases to Lessee approximately 970 square feet of commercial office space in the Oak Court Building located at 540 Oak Street, Eugene, OR, known as Suite D.

The term of this agreement shall be from March 1, 2008 through February 29, 2012.

Lessor and Lessee covenant and agree as follows:

**1.0 Rent** Rent for the entire lease term shall be \$1,132.00 monthly.

**1.1 Rent Payment** Lessee shall pay the rent for the premises and any additional rent provided herein without deduction or offset. Rent for any partial month during the lease term shall be prorated to reflect the number of days during the month that Lessee occupies the Premises. Rent not paid when due shall bear interest at the rate of one-and-one-half percent per month until paid. Lessor may at its option impose a late charge of \$.05 for each \$1 of rent for rent payments made more than 10 days late in lieu of interest for the first month of delinquency, without waiving any other remedies available for default.

**1.2 Security Deposit** To secure Lessee's compliance with all terms of this lease, Lessee has paid Lessor \$1,132.00 as a deposit. The deposit shall be a debt from the Lessor to Lessee, refundable within 30 days after expiration of the lease term or other termination not caused by Lessee's default. Lessor may commingle the deposit with its funds and Lessee shall not be entitled to interest on the deposit. Lessor shall have the right to offset against the deposit any sums owing from Lessee to Lessor and not paid when due, any damages caused by Lessee's default, the cost of curing any default by Lessee should Lessor elect to do so, and the cost of performing any repair or cleanup that is Lessee's responsibility. Offset against the deposit shall not be an exclusive remedy in any of the above cases, but may be invoked by Lessor, at its option, in addition to any other remedy provided by law or this agreement for Lessee's nonperformance. Lessor shall give notice to Lessee each time an offset is claimed against the deposit, and, unless the lease is terminated, Lessee shall within 10 days after such notice deposit with Lessor a sum equal to the amount of the offset so that the total deposit amount, net of offset, shall remain constant throughout the lease term.

**2.0 Parking** Lessor agrees to provide two (2) parking permits for non-designated spaces in the Lessor owned lot adjacent to the leased property. Said permits shall be obtained from Diamond Parking Services, who currently provides parking management services for Lessor. Lessee acknowledges that on occasion said adjacent parking lot may be full. On such occasions Lessee may park in other surface lots in the area owned by Lessor. Lessee shall direct parking inquiries to Diamond Parking. Lessee may use the alley and the area next to the entrance to the leased property for loading and unloading of materials used by

Lessee's business, so long as parking in the area does not exceed 30 minutes.

**3.0 Use** Lessee shall use the Premises as a site for its business as a law firm and related office activity and for no other purpose without Lessor's written consent. In connection with its use, Lessee shall at its expense promptly comply with all applicable laws, ordinances, rules and regulations of any public authority and shall not annoy, instruct, or interfere with the rights of other Lessees of the Building. Lessee shall create no nuisance nor allow any objectionable fumes, noise, or vibrations to be emitted from the Premises. Lessee shall not conduct any activities that will increase Lessor's insurance rates for any portion of the Building or that will in any manner degrade or damage the reputation of the Building.

**3.1 Equipment** Lessee shall install in the Premises only such office equipment as is customary for general office use and shall not overload the floors or electrical circuits of the Premises or Building or alter the plumbing or wiring of the Premises or Building. Lessor must approve in advance the location and manner of installing any electrical, heat generating or communication equipment or exceptionally heavy articles. Any additional air conditioning required because of heat generating equipment air special lighting installed by Lessee shall be installed and operated at Lessee's expense.

**3.2 Signs** No signs, awnings, antennas, or other apparatus shall be painted on or attached to the Building or anything placed on any glass or woodwork of the Premises or positioned so as to be visible from outside the Premises without Lessor's written approval as to the design, size, location, and color. All signs installed by Lessee shall comply with Lessor's standards for signs and all applicable codes and all signs and sign hardware shall be removed upon termination of this lease with the sign location restored to its former state unless Lessor elects to retain all or any portion thereof.

**4.0 Utilities and Services** Lessor shall furnish water, sewer, electricity, trash disposal for normal business trash (trash dumpster to be located in parking lot adjacent to leased premises), outside grounds maintenance (cigarette receptacles excepted which shall be the responsibility of Lessee), heat, and if the Premises are air conditioned, air conditioning. Janitorial service will be provided by Lessee at Lessee's expense. Lessee shall comply with all government laws or regulations regarding the use or reduction of use of utilities on the Premises. Interruption of services or utilities shall not be deemed an eviction or disturbance of Lessee's use and possession of the Premises, render Lessor liable to Lessee for damage, or relieve Lessee from performance of Lessee's obligations under this lease, but Lessor shall take all reasonable steps to correct any interruptions in service. Electrical service furnished will be 110 volts unless different service already exists in the Premises.

**4.1 Extra Usage** If Lessee uses excessive amounts of utilities or services of any kind because of operation outside of normal Building hours, high demands from office machinery and equipment, nonstandard lighting, or any other cause, Lessor may impose a reasonable charge for supplying such extra utilities services, which charge shall be payable monthly by Lessee in conjunction with rent payments. In case of dispute over any extra charge under this paragraph, Lessor shall designate a qualified independent engineer whose decision shall be conclusive on both parties. Lessor and Lessee shall each pay one-half of the cost of such determination.

**4.2 Property Taxes** Lessor shall be responsible for the payment of property taxes on the premises.

**5.0 Maintenance and Repair** Lessor shall keep the building in which the demised premises are located in good order and repair except that Lessor shall not be obligated to make any repairs required due to the neglect or default of Lessee, its employees, contractors, agents or invitees. Lessee shall take the leased premises as they are at the time of the commencement of this lease and shall be solely responsible for any interior redecoration or renovation thereof subject to section 5.1. Lessor shall have no liability for failure to perform required maintenance or repair unless written notice of the needed maintenance or repair is given by Lessee and Lessor fails to commence efforts to remedy the problem in a reasonable time and manner. Lessor shall have the right to erect scaffolding and other apparatus necessary for the purpose of making repairs, and Lessor shall have no liability for interference with Lessee's use because of repairs and installations. Lessee shall have no claim against Lessor for any interruption or reduction of services or interference with Lessee's occupancy, and no such interruption or reduction shall be construed as a constructive or other eviction of Lessee. Repair of damage caused by negligent or intentional acts or breach of this lease by Lessee, its employees or invitees shall be at Lessee's expense. Lessor shall have the right of access to the premises for the purpose of performing its maintenance and repair obligations.

**5.1 Alterations** Lessee shall not make any alterations, additions, or improvements to the Premises, change the color of the interior, or install any wall or floor covering without Lessor's prior written consent. Any such additions, alterations, or improvements, except for removable machinery and unattached movable trade fixtures, shall at once become part of the realty and belong to Lessor. Lessor may at its option require that Lessee remove any alterations and restore the Premises to the original condition upon termination of this lease. Lessor shall have the right to approve the contractor used by Lessee for any work in the Premises, and to post notices of nonresponsibility in connection with any work being performed by Lessee in the Premises.

**5.2 Door Locks/Keys** For maintenance and safety purposes, locks for the building have been keyed, and will continue to be keyed, to a common master. Lessee shall notify Lessor if Lessee' desires to re-key the locks to the leased premises. Lessee shall be responsible for the cost of re-keying the leased premises except if said re-keying is required due to needed maintenance or repair.

**5.3 Lessor Improvements** Prior to occupancy by Lessee, Lessor, at Lessor's expense, shall paint interior walls with a color mutually agreed upon by Lessor and Lessee (brick areas excepted).

**6.0 Indemnity** Lessee shall not allow any liens to attach to the Building or Lessee's interest in the Premises as a result of its activities. Lessee shall indemnify and defend Lessor, its commissioners, officers employees and agents, from any claim, liability, damage, or loss occurring on the Premises, arising out of or connected with any activity by Lessee, its agents, or invitees or resulting from Lessee's failure to comply with any term of this lease. Lessor shall have no liability to Lessee because of loss or damage caused by the acts or omissions of other Lessees of the Building, or by third parties.

**7.0 Insurance** Lessee shall carry a liability insurance policy of not less than \$1,000,000.00 per occurrence. Said policy shall have an endorsement naming **Lane County, its commissioners, officers employees and agents as additional insureds** covering the liability insured under paragraph 6.0 of this lease. Lessee shall furnish a certificate evidencing such insurance which shall state that the coverage shall not be canceled or materially changed without 10 days' advance notice to Lessor and Lessor's agent, if any, and a renewal certificate shall be furnished at least 10 days prior to expiration of any policy.

**8.0 Fire or Casualty** "Major Damage" means damage by fire or other casualty of the Building or the Premises which causes any substantial portion of the Building or Premises to be unusable, or which will cost more than 25 percent of the pre-damage value of the Building to repair, or which is not covered by insurance. In case of Major Damage, Lessor may elect to terminate this lease by notice in writing to Lessee within 30 days after such date. If this lease is not terminated following Major Damage, or if damage occurs which is not Major Damage, Lessor shall promptly restore the Premises to the condition existing just prior to the damage. Lessee shall promptly restore all damage to Lessee improvements or alterations installed by Lessee or pay the cost of such restoration to Lessor if Lessor elects to do the restoration of such improvements. Rent shall be reduced from the date of damage until date restoration work being performed by Lessor is substantially complete, with the reduction to be in proportion to the area of the Premises not useable by Lessee.

**9.0 Waiver of Subrogation** Lessee shall be responsible for insuring its personal property located on the Premises and any alterations or Lessee improvements it has made to the Premises. Neither Lessor nor Lessee shall be liable to the other for any loss or damage caused by water damage, sprinkler leakage, or any of the risks that are or could be covered by a standard all risk insurance policy with an extended coverage endorsement, or for any business interruption, and there shall be no subrogated claim by one party's insurance carrier against the other party arising out of any such loss.

**10.0 Eminent Domain** If a condemning authority takes title by eminent domain or by agreement in lieu thereof to the entire Building or a portion sufficient to render the Premises unsuitable for Lessee's use, then either party may elect to terminate this lease effective on the date that possession is taken by the condemning authority. Rent shall be reduced for the remainder of the term in an amount proportionate to the reduction in area of the Premises caused by the taking. All condemnation proceeds shall belong to Lessor, and Lessee shall have no claim against Lessor or the condemnation award because of the taking.

**11.0 Assignment and Subletting** This lease shall bind and inure to the benefit of the parties, their respective heirs, successors, and assigns, provided that Lessee shall not assign its interest under this lease or sublet all or any portion of the Premises without first obtaining Lessor's consent in writing. This provision shall apply to all transfers by operation of law including but not limited to mergers and changes in control of Lessee. No assignment shall relieve Lessee of its obligation to pay rent or perform other obligations required by this lease and no consent to one assignment or subletting shall be a consent of any further assignment or subletting. Lessor shall not unreasonably withhold its consent to any assignment, or to subletting provided the subrental rate or effective rental paid by the assignee is not less than the current scheduled rental rate of the Building for comparable space and the Proposed Lessee is compatible with Lessor's normal standards for the Building. If Lessee proposes a subletting or assignment to which Lessor is required to consent under this paragraph, Lessor shall have the option of terminating this lease and dealing directly with the proposed subLessee or assignee, or any third party. If an assignment or subletting is permitted, any cash profit, or the net value of any other consideration received by the Lessee as a result of such transaction shall be paid to Lessor promptly following its receipt by Lessee. Lessee shall pay any costs incurred by Lessor in connection with a request for assignment or subletting, including reasonable attorneys' fees.

**12.0 Default** Any of the following shall constitute a default by Lessee under this lease:

(a) Lessee's failure to pay rent or any other charge under this lease within 10 days after it is due, or failure to comply with any other term or condition within 20 days following written notice from Lessor specifying the noncompliance. If such noncompliance cannot be cured within the 20-day period, this provision shall be satisfied if Lessee commences correction within such period and thereafter proceeds in good faith and with reasonable diligence to effect compliance as soon as possible. Time is of the essence of this lease.

(b) Lessee's insolvency, business failure or assignment for the benefit of its creditors. Lessee's commencement of proceedings under any provision of any bankruptcy or insolvency law or failure to obtain dismissal of any petition filed against it under such laws within the time required to answer, or the appointment of a receiver for Lessee's properties.

(c) Assignment or subletting by Lessee in violation of paragraph 11.0

(d) Vacation or abandonment of the Premises without the written consent of Lessor.

**13.0 Remedies for Default** In case of default as described in paragraph 12.0 Lessor shall have the right to the following remedies which are intended to be cumulative and in addition to any other remedies provided under applicable law:

(a) Lessor may terminate the lease and retake possession of the Premises. Following such retaking of possession, efforts by Lessor to relet the Premises shall be sufficient if Lessor follows its usual procedures for finding Lessees for the space at rates not less than the current rates for other comparable space in the Building. If Lessor has other vacant space in the Building, prospective Lessees may be placed in such other space without prejudice to Lessor's claim to damages or loss of rentals from Lessee.

(b) Lessor may recover damages caused by Lessee's default which shall include an amount equal to rentals lost because of the default, lease commissions paid for this lease, and the unamortized cost of any Lessee improvements installed by Lessor to meet Lessee's special requirements. Lessor may sue periodically to recover damages as they occur throughout the lease term, and no action for accrued damages shall bar a later action for damages subsequently occurring. Lessor may elect in any one action to recover accrued damages plus damages attributable to the remaining term of the lease. Such damages shall be measured by the difference between the rent under this lease and the reasonable rental value of the Premises for the remainder of the term, discounted to the time of judgment at the prevailing interest rate on judgments.

(c) Lessor may make any payment or perform any obligation which Lessee has failed to perform, in which case Lessor shall be entitled to recover from Lessee upon demand all amounts so expended, plus interest from the date of the expenditure at the rate of one-and-one-half percent per month. Any such payment or performance by Lessor shall not waive Lessee's default.

**14.0 Surrender** On expiration or early termination of this lease Lessee shall deliver all keys to Lessor and surrender the Premises broom clean and in the same condition as at the commencement of the term sufficient only to reasonable wear from ordinary use. Lessee shall remove all of its furnishings and trade fixtures that remain its property and restore all damage resulting from such removal. Failure to remove shall be an abandonment of the property, and Lessor may dispose of it in any manner without liability. If Lessee fails to vacate the Premises when required, including failure to remove all its personal property, Lessor may elect further: (i) to treat Lessee as a Lessee from month to month, subject to the provisions of this lease except that rent shall be one-and-one-half times the total rent being charged when the lease term expired; or (ii) to eject Lessee from the Premises and recover damages caused by wrongful holdover.

**15.0 Regulations** Lessor shall have the right (but shall not be obligated) to make, revise and enforce regulations or policies consistent with this lease for the purpose of promoting safety, order, economy, cleanliness, and good service to all Lessees of the Building. All such regulations and policies shall be complied with as if part of this lease.

**16.0 Access** During times other than normal Building hours, Lessee's officers and employees or those having business with Lessee may be required to identify themselves or show passes in order to gain access to the Building. Lessor shall have no liability for permitting or refusing to permit access by anyone. Lessor shall have the right to enter upon the Premises at any time by passkey or otherwise to determine Lessee's compliance with this lease, to perform necessary services, maintenance and repairs to the Building or the Premises, or to show the Premises to any prospective Lessee or purchasers. Except in case of emergency, such entry shall be at such times and in such manner as to minimize interference with the reasonable business use of the Premises by Lessee.

**17.0 Furniture and Bulky Articles** Lessee shall move furniture and bulky articles in and out of the Building or make independent use of the elevators only at times approved by Lessor following at least 24 hours written notice to Lessor of the intended move. Lessor will not unreasonably withhold its consent under this paragraph.

**18.0 Notices** Notices between the parties relating to this lease shall be in writing, effective when delivered, or if mailed, effective on the second day following mailing, postage paid, to the address for the party stated in this lease or to such other address as either party may specify by notice to the other. Notice to Lessee may always be delivered to the Premises. Rent shall be payable to Lessor at the same address and in the same manner, but shall be considered paid only when received. Notices to Lessor shall be mailed to: Lane County/Property Management Division, 125 East 8<sup>th</sup> Avenue, Eugene, OR 97401.

**19.0 Subordination** This lease shall be subject and subordinate to any mortgages, deeds of trust, or land sale contracts (hereafter collectively referred to as encumbrances) now existing against the Building. At Lessor's option this lease shall be subject and subordinate to any future encumbrance hereafter placed against the Building (including the underlying land) or any modifications of existing encumbrances, and Lessee shall execute such documents as may reasonably be requested by Lessor or the holder of the encumbrance to evidence this subordination.

**20.0 Transfer of Building** If the Building is sold or otherwise transferred by Lessor or any successor, Lessee shall attorn to the purchaser or transferee and recognize it as the lessor under this lease, and, provided the purchaser assumes all obligations hereunder, the transferor shall have no further liability hereunder.

**21.0 Estoppels** Either party will within 20 days after notice from the other execute, acknowledge and deliver to the other party a certificate certifying whether or not this lease has been modified and is in full force and effect; whether there are any modifications or alleged breaches by the other party; the dates to which rent has been paid in advance, and the amount of any security deposit or prepaid rent; and any other facts that may reasonably be requested. Failure to deliver the certificate within the specified time shall be conclusive upon the party of whom the certificate was requested that the lease is in full force and effect and has not been modified except as may be represented by the other requesting the certificate. If requested by the holder of any Encumbrance, or any ground lessor, Lessee will agree to give such holder or lessor notice of and an opportunity to cure any default by Lessor under this lease.

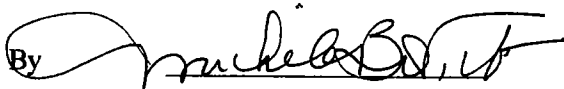
**22.0 Quiet Enjoyment** Lessor warrants that so long as Lessee complies with all terms of this lease it shall be entitled to peaceable and undisturbed possession of the Premises free from any eviction or disturbance by Lessor. Lessor shall have no liability to Lessee for loss or damages arising out of the acts of other Lessees of the Building or third parties, nor any liability for any reason which exceeds the value of its interest in the Building.

**23.0 Complete Agreements** This lease and any attached Exhibits and Schedules constitute the entire agreement of the parties and supersede all prior written and oral agreements and representations. Neither Lessor nor Lessee is relying on any representations other than those expressly set forth herein.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this lease as of the day and year written below.

**LESSOR:** By \_\_\_\_\_  
Name: Jeff Spartz  
Title: County Administrator  
Date: \_\_\_\_\_

**LESSEE:**

By   
Name: Michele Bo Victor  
Title: President  
Date: January 28, 2008