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IN THE BOARD OF COUNTY COMMISSIONERS
OF LANE COUNTY, OREGON

ORDER NO. 03-9-24-7) IN THE MATTER OF DESIGNATING THE INTERNAL AUDITOR AS
) AN EMPLOYEE IN THE UNCLASSIFIED SERVICE AND
) DELEGATING AUTHORITY TO EXECUTE AN EMPLOYMENT
) CONTRACT

WHEREAS, the Lane County Board of Commissioners determined it is prudent to have an Internal Auditor, and

WHEREAS, in April, 2002, Lane County hired Kay Blackburn to provide these services, under the terms that she report directly to the Board, serve at their will, and be independent of any particular County department, and

WHEREAS, the Lane County Home Rule Charter, Section 28(2)(e) provides that persons employed by the County to render professional, scientific, technical or expert services of occasional or exceptional character are within the unclassified service of the County, and

WHEREAS, on June 4, 2003, by Board Order 03-6-4-8, the Board provided augmented descriptions of the unclassified services by providing certain definitions and policies, including generally limiting those in the unclassified service by time and in the provision of benefits, and

WHEREAS, it is clear that the Internal Auditor is a professional position of unique and exceptional character that should be treated akin to the County Administrator and County Counsel, which are unclassified positions that report directly to the Board of County Commissioners, and

WHEREAS, on September 17, 2003, the Board evaluated the performance of Kay Blackburn during the past year and found it to be satisfactory, and

WHEREAS, the Board desires that Kay Blackburn's services be continued, but also recognizes that it is more appropriate that such continuation should occur through an employment agreement whereby she would serve in the unclassified service, rather than in a position in the classified service, now therefore, it is hereby

ORDERED that Ms. Blackburn's employment be removed from a position in the classified service of Lane County and she be transferred to the unclassified service, effective retroactively to April 1, 2003, and it is further

ORDERED the Chair of the Board is delegated authority to execute an employment agreement with Kay Blackburn to engage her services in the unclassified services as the Lane County Internal Auditor, at a compensation of \$61,693 annually, effective April 1, 2003, in a form substantially similar to that attached as Exhibit A, and it is further

ORDERED that the Board determines that the services of an Internal Auditor is a professional position of exceptional character within the meaning of the Lane County Home Rule Charter Section 28(2)(e), and that to the extent any provision in the contract with Ms. Blackburn is inconsistent with the Lane Manual guidelines for the unclassified service, those Lane Manual provisions are hereby overridden by this Order for these purposes only.

DATED this 24th day of September, 2003.

APPROVED AS TO FORM

Date 9/19/03 Lane County
Teresa Nichols
OFFICE OF LEGAL COUNSEL

Peter Sorenson, Chair
Lane County Board of Commissioners

EMPLOYMENT AGREEMENT

BETWEEN: Kay Blackburn (Blackburn)

AND: Lane County, Oregon, a political subdivision of the State of Oregon (County)

RECITALS

- A. The Board of Commissioners (Board) has determined that the County has the need of the services of an Internal Auditor.
- B. The Board has further determined that such services are professional, expert services of an exceptional character such that the employment of an individual to perform this work falls within the unclassified service of Lane County pursuant to the Lane County Home Rule Charter.
- C. The Board has further determined that the Internal Auditor shall report directly to the Board.
- D. Blackburn is currently employed by County as the Internal Auditor. County wishes to continue Blackburn's employment as Internal Auditor in the unclassified service, and Blackburn wishes to accept that continued employment, on the following terms. The parties agree that this contract supersedes all prior written or oral contracts between them concerning Blackburn's employment as Internal Auditor.

AGREEMENTS

- 1. Duties. County agrees to continue Blackburn's employment as Internal Auditor in the unclassified service of Lane County on the terms and conditions described below. Blackburn agrees to accept such employment on the same terms, to devote her full time and attention to the duties of Internal Auditor, including the duties of Performance Auditor as described in Lane Manual 3.070-3.074, and to perform the functions and duties of this position in accordance with the rules and ordinances of Lane County, Oregon, and applicable local, state and federal law.
- 2. Term. This agreement shall expire on March 31, 2004, unless it is terminated earlier according to the terms of paragraph 3 of this agreement, or unless it is amended by the mutual written consent of both parties prior to that date. After March 31, 2004, this employment agreement shall continue on a month-to-month basis at the existing rate of compensation until action is taken to renew or not renew the agreement.
- 3. Termination. This agreement may be terminated prior to March 31, 2004 in the following circumstances:
 - 3.1. By mutual consent of the parties in writing.
 - 3.2. Unilaterally by Blackburn, upon 30 days' written notice to the County, unless the parties agree to shorten the notice period.
 - 3.3. Unilaterally by the County, for the commission of an illegal act.

If this agreement is terminated pursuant to this subparagraph, Blackburn shall receive accrued vacation leave and any other accrued leave owed to her upon termination of employment under the County's policies. Blackburn shall not be entitled to any severance pay or other additional compensation upon separation from employment.

- 3.4. Unilaterally by the County for any reason. If the Board wishes to replace the Internal Auditor for any reason other than as provided in paragraphs 3.3 above, or in the event of non-renewal, then the Board agrees to pay Blackburn severance pay at the rate of one month's pay for each full year of service to Lane County as Internal Auditor, up to a total of, but not to exceed 6 months of pay.
4. Salary and Benefits. County will pay Blackburn for her services rendered pursuant to this agreement the following salary and benefits:
- 4.1. An annual base salary as of April 1, 2003 in the amount of \$61,693. Blackburn shall also receive any cost of living adjustments given to County department directors. Any merit increases remain at the discretion of the Board, and require Board review and approval.
- 4.2. Membership in the Public Employees' Retirement System (PERS) on the same basis as County department directors.
- 4.3. Insurance coverage equivalent to the package provided to County department directors, including, but not limited to health, life and long-term disability insurance.
- 4.4. Time Management equivalent to leave earned by County department directors of Blackburn's tenure as a County employee.
- 4.5. Such other benefits (Deferred Compensation, Employee Assistance Program, Flexible Spending Plan,) and paid holidays as are routinely available to County department directors.
5. Performance Evaluation. The Board will evaluate Blackburn's performance at least annually, generally by March 31 of each year. The process and format for the evaluation will be determined by the Board, in consultation with Blackburn, and subject to Blackburn's rights under the Open Meetings Law.
6. Indemnification. The County will defend and indemnify Blackburn against any tort, professional liability claim or demand, or other legal action arising out of an alleged act or omission occurring in the performance of Blackburn's duties as Internal Auditor, unless prohibited by law. The duties of Internal Auditor do not include the commission of any criminal act or intentional tort. This indemnification shall include the cost of defense, provided that the County will choose or approve legal representation for Blackburn and will retain control over the defense of the claim, including the sole power to compromise and settle any claim or action and pay the amount of the settlement of judgment.
7. Bonding. The County shall pay the full cost of any fidelity or other bonds required of Blackburn by law or ordinance.
8. Notices. Notices required pursuant to this agreement shall be given by deposit in the United States Mail, postage prepaid, return receipt requested, addressed as follows:

County: Chair of the Board of Commissioners
Lane County, Oregon
125 E. 81 Avenue
Eugene, Oregon 97401

Blackburn: Kay Blackburn
2700 Fairmont Blvd.
Eugene, Oregon 97403

Alternatively, notices required by this agreement may be personally serviced in the same manner as

is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the United States Mail.

9. Review by Independent Counsel. Blackburn acknowledges that the County has advised her to have this agreement reviewed by an attorney of her choice.
10. Effective Date. This agreement shall become effective retroactively to April 1, 2003 when authorized by the Board (September 24, 2003).
11. Voluntary Agreement. Blackburn acknowledges that she understands the terms of this agreement, that she has entered into it voluntarily, and that the complete terms of the parties' agreement are set forth in this written document. Blackburn acknowledges that she has not relied on any other representations or promises by the County, its agents, employees or representatives except those contained in this agreement.
12. Dispute Resolution. Any controversy or claim arising out of or related to this agreement or breach thereof will be settled through arbitration in accordance with the rules and procedures of the American Arbitration Association. In the event both parties agree, the matter will be submitted to mediation under those rules; otherwise, the matter will proceed to arbitration. Any such arbitration will occur in Eugene, Oregon. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitrator may award attorney's fees and costs to the prevailing party; otherwise, the costs of arbitration, including the fees of the arbitrator, shall be divided equally by the parties and each party will be responsible for that party's attorney's fees.

COUNTY: Lane County, Oregon

Date: _____

By: _____
Chair, Board of County Commissioners

Date: _____

Kay Blackburn