

W. T. B. I.

**AGENDA COVER MEMORANDUM**

**Agenda Date: June 14, 2006**

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**DATE:** May 31, 2006

**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 38 YEAR GROUND LEASE AGREEMENT WITH LOOKING GLASS YOUTH AND FAMILY SERVICES, INC. FOR STEPPING STONE LODGE LOCATED ON A PORTION OF COUNTY OWNED PROPERTY IDENTIFIED AS ASSESSOR'S MAP NO. 17-04-29-40-00401 (FORMER ARMORY SITE ON MARTIN LUTHER KING BLVD.)

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1. **PROPOSED MOTION:** THE BOARD OF COUNTY COMMISSIONERS MOVES TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE A 38 YEAR GROUND LEASE AGREEMENT WITH LOOKING GLASS YOUTH AND FAMILY SERVICES, INC. FOR STEPPING STONE LODGE LOCATED ON A PORTION OF COUNTY OWNED PROPERTY IDENTIFIED AS ASSESSOR'S MAP NO. 17-04-29-40-00401 (FORMER ARMORY SITE ON MARTIN LUTHER KING BLVD.)
  
2. **ISSUE/PROBLEM:** In 1996, the County entered into a lease agreement with the State of Oregon for the National Guard Armory property located on Martin Luther King Blvd. The County subsequently sub-leased the property to Looking Glass for the construction of Stepping Stone Lodge (long-term treatment facility for youth offenders). The County has since acquired ownership of the Armory property requiring a direct lease agreement with Looking Glass.

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

### 3. **DISCUSSION:**

#### 3.1 Background

In conjunction with development of the Youth Campus on Martin Luther King Blvd. and relocation of the Armory with the property to be eventually transferred to the County, the County leased the property from the State and then sub-leased the property to Looking Glass who was to construct Stepping Stone Lodge. The lease/sub lease was for the Eastern portion of the property and was to run through July 11, 2044.

In April 2004, the County acquired ownership of the Armory property from the State. After the County acquired ownership the Department of Assessment and Taxation informed Looking Glass that in order to maintain their property tax exemption they would have to execute a new lease with the county. An interim 2 year agreement was entered into at that time to maintain the exemption and provide time to re-write the sub-lease agreement.

The interim lease will expire on June 30, 2006. A long term lease through June 30, 2044 containing similar provisions has been drafted. The agreement is a ground lease with Looking Glass having ownership of Stepping Stone Lodge (which has been constructed at Looking Glass' expense). As with the initial sub-lease agreement, Looking Glass is not being charged rent (save for \$1.00/year) as the county wished to support the services being offered and the co-location of those services next to the Dept. of Youth Services facilities.

#### 3.2 Analysis

The proposed lease is consistent with the terms, provisions and intent of the initial lease and sub-lease between the State, County and Looking Glass executed in 1996.

#### 3.3 Alternatives/Options

1. Execute the agreement under the terms and conditions presented.
2. Direct staff to negotiate different terms and conditions as determined by the Board.

#### 3.4 Recommendation

It is recommended that the County Administrator be authorized to execute the lease agreement pursuant to option 1.

#### 3.5 Timing

The lease needs to be executed prior to July 1, 2006 to qualify for a tax exemption.

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

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO. IN THE MATTER OF AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A 38 YEAR GROUND LEASE AGREEMENT WITH LOOKING GLASS YOUTH AND FAMILY SERVICES, INC. FOR STEPPING STONE LODGE LOCATED ON A PORTION OF COUNTY OWNED PROPERTY IDENTIFIED AS ASSESSOR'S MAP NO. 17-04-29-40-00401 (FORMER ARMORY SITE ON MARTIN LUTHER KING BLVD.)

WHEREAS this matter now coming before the Lane County Board of Commissioners and said Board deeming it in the best interest of Lane County to enter into a lease agreement with Looking Glass Youth and Family Services, Inc. for the location of Stepping Stone Lodge on County owned property and

WHEREAS said lease is consistent with a 1996 sub-lease agreement between the County and Looking Glass executed prior to the County obtaining owner ship of said property from the State of Oregon

WHEREAS the County wishes to continue said arrangement with Looking Glass so they may continue to provide services to youthful offenders in Lane County and

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

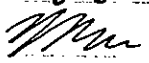

IT IS HEREBY ORDERED that the County Administrator is authorized to execute a lease agreement with Looking Glass Youth and Family Services Inc., substantially similar to attached exhibit "A"

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\_\_.

APPROVED AS TO FORM

Date 6-6-06 Lane County

OFFICE OF LEGAL COUNSEL

\_\_\_\_\_  
Bill Dwyer, Chair  
Lane County Board of Commissioners

IN THE MATTER OF AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A 38 YEAR GROUND LEASE AGREEMENT WITH LOOKING GLASS YOUTH AND FAMILY SERVICES, INC. FOR STEPPING STONE LODGE LOCATED ON A PORTION OF COUNTY OWNED PROPERTY IDENTIFIED AS ASSESSOR'S MAP NO. 17-04-29-40-00401 (FORMER ARMORY SITE ON MARTIN LUTHER KING BLVD.)

## **EXHIBIT "A"**

### **LEASE**

This Lease is entered into by and between LANE COUNTY, a political subdivision of the State of Oregon, hereinafter "COUNTY", and LOOKING GLASS YOUTH AND FAMILYSERVICES, INC., a private, not-for-profit corporation, hereinafter "LOOKING GLASS"

#### **RECITALS:**

A. In May of 1994, the State of Oregon, hereinafter STATE, leased to COUNTY property, hereinafter referred to as "Premises" and more fully described in Exhibit A. Said Premises are located at the former National Guard Armory site in Eugene, and were to be used by COUNTY for the development of a Youth Campus. The Premises abuts COUNTY owned property used by the Lane County Department of Youth Services.

B. The Youth Campus is a public/private venture that will bring services for youth onto one site. LOOKING GLASS is the operator of Stepping Stone Lodge, a youth care center for delinquent boys. Stepping Stone Lodge is presently the only licensed Youth Care Center in Lane County. LOOKING GLASS had been a participant in all discussions with the State, and relocation of this program on the land leased to COUNTY was an integral part of STATE's inducement to lease the property to COUNTY.

C. In April, 1994, COUNTY entered into a sublease agreement with LOOKING GLASS for the Premises. Said sublease provided for the construction and operation by LOOKING GLASS of Stepping Stone Lodge. Construction of Stepping Stone Lodge has been completed.

D. Since entering into said sublease agreement, COUNTY has acquired ownership of the Premises from STATE

E. COUNTY and LOOKING GLASS now wish to enter into a lease agreement for the Premises with substantially the same terms and conditions of the sublease agreement.

**The parties therefore agree as follows:**

#### **SECTION 1. AGREEMENT TO LEASE**

COUNTY hereby leases to LOOKING GLASS and LOOKING GLASS hereby leases from COUNTY the Premises on the terms and conditions set forth below.

## **SECTION 2. TERM**

The term of this lease shall begin on July 1, 2006 and end on July 11, 2044 unless it is sooner terminated as provided in this agreement.

## **SECTION 3. RENT AND COSTS**

LOOKING GLASS shall pay as rent to COUNTY the sum of \$1.00 per year, it being COUNTY'S desire and intent to assist in the delivery of residential care and treatment to juvenile within the jurisdiction of the Lane County Juvenile Court, and thereby reduce their criminal and antisocial behavior. Rent shall be paid on or before September 1 of each year during the term.

## **SECTION 4. MORTGAGE**

**4.1** LOOKING GLASS may subject the leased estate and any or all improvements to one or more mortgages or other liens as security for a loan or loans or other obligations, for the purpose of constructing a facility in which to conduct a youth program provided that:

**4.1.1** Any mortgage or security lien by LOOKING GLASS shall be subject to all of the terms and conditions of this lease, and to the rights and interests of COUNTY except as specifically provided to the contrary in this lease.

**4.1.2** The mortgage or other lien shall not subject the Premises or COUNTY to any obligation contrary to the provisions of the Oregon Constitution, Article XI, Section 10.

**4.1.3** LOOKING GLASS shall notify COUNTY of the creation of each such mortgage or other lien and deliver to COUNTY true copies of the note or mortgage or other lien documents.

**4.1.4** Subject to the restrictions set forth in Section 13.1 of this sublease, if an accepted mortgage or security lien is foreclosed and the mortgagee or lienholder thereafter uses the Premises or causes or permits their use for any other purpose than provided herein, rent shall be paid at the prevailing market rate. The parties understand and agree that the rent being described for this paragraph is rent for the land and not for any improvements made by Looking Glass.

## **SECTION 5. ASSIGNMENT**

**5.1** LOOKING GLASS shall not assign or otherwise transfer its interest in this lease or the estate created by this lease.

**5.2** For purposes of this section, the sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of LOOKING GLASS or of

the interest of any general partner or joint venture or syndicate member or cotenant if LOOKING GLASS is a corporation, partnership, joint venture, syndicate or cotenancy, which shall result in changing the control of LOOKING GLASS shall be construed to be an assignment of this lease.

**5.3** LOOKING GLASS shall not sublet any or all of the Premises or any improvements thereon.

## **SECTION 6. INITIAL CONSTRUCTION**

It is acknowledged and agreed that LOOKING GLASS has completed construction of Stepping Stone Lodge as required in the original sublease agreement.

## **SECTION 7. MAINTENANCE, ALTERATION, RECONSTRUCTION**

**7.1 Maintenance.** LOOKING GLASS shall maintain the Premises and all improvements in first class condition and repair throughout the term of this sublease, ordinary wear and tear excepted, and in accordance with all applicable laws, rules, regulations and ordinances of federal, state, county, municipal or other governmental agencies having or claiming jurisdiction.

**7.2 Alterations.** LOOKING GLASS may from time to time construct, improve, demolish, remove, replace, alter, reconstruct, remodel, or add to any existing improvements in whole or in part ("alterations") as LOOKING GLASS shall deem necessary or desirable on the following conditions:

**7.2.1** The value of the improvements on the Premises upon completion of such alterations shall equal or exceed the value of the improvements on the Premises just prior to such work.

**7.2.2** All such work shall be done in a good and skillful manner in compliance with all applicable building and zoning laws and all other laws, ordinances, orders and requirements of all authorities having or claiming jurisdiction.

**7.3 Reconstruction After Damage.** If any building or other improvement on the Premises is damaged or destroyed by fire or any other cause at any time during the lease term, whether or not covered by insurance and paragraph 7.3.1 does not apply, LOOKING GLASS shall promptly repair the damage and restore the improvement. The completed repair, restoration or replacement shall be equal in value, quality and use to the condition of the improvement immediately before the damage.

**7.3.1** If a building on the Premises is damaged to the extent that the estimated reasonable cost of restoring the building equals or exceeds 50% of the fair market value of the building immediately prior to the damage, LOOKING GLASS shall repair, restore and replace as provided in paragraph 7.3 except that by notice to COUNTY within 60 days after the date of the damage LOOKING GLASS may elect

instead to raze the building, restore the Premises to its condition at the start of the initial lease term (with the addition of undamaged site improvements) and terminate this lease. LOOKING GLASS shall pay all costs for razing or and restoration of the Premises which shall be completed not later than 240 days after the date of the fire or other cause of damage. The date of termination of this lease shall be the date on which the razing and restoration is completed, and LOOKING GLASS shall pay all rents, taxes and utilities and shall perform all other obligations of LOOKING GLASS under this lease to the date of termination. In the absence of such an election, LOOKING GLASS shall promptly repair the damage and restore the building and shall do so whether or not the proceeds of any insurance policies covering the loss are sufficient to pay the cost of such repair, replacement or restoration.

7.3.2 LOOKING GLASS shall not be entitled to any abatement of rent on account of any damage to or destruction of the building or other improvements on the Premises, nor shall any other obligations of LOOKING GLASS under this lease be altered or terminated except as specially provided to the contrary.

**7.4 Work Deemed to Be Construction.** Any maintenance, alterations, reconstruction, razing or other work undertaken as a single project, the cost of which is estimated to equal or exceed \$15,000, shall be deemed to be Construction and shall be subject to the conditions of Construction specified in paragraphs 7.2 through 7.6

**7.5 Conditions of Construction.** Prior to commencement of Construction, LOOKING GLASS shall comply with each of the following conditions:

7.5.1 Obtain and pay for all necessary land use approvals or permits, building permits or any other governmental permit or approval required prior to construction and both prior to commencing construction and throughout the term of the lease, comply with all governmental laws, rules and regulations applicable to the Construction.

7.5.2 LOOKING GLASS shall obtain from COUNTY their reasonable prior approval of its plans and specifications, which are prepared by a licensed architect or engineer, and the Construction shall conform to the approved plans and specifications. LOOKING GLASS shall deliver to COUNTY for their reasonable approval two (2) sets of preliminary plans and specifications prepared by an architect or engineer licensed in the State of Oregon which are sufficient to enable COUNTY to make an informed judgment about the design and quality of the Construction. COUNTY shall not unreasonably disapprove such plans and specifications. Approval or disapproval shall be communicated to LOOKING GLASS in the manner provided for notices within ten (10) days after receipt of complete plans and specifications. Any disapproval shall be accompanied by a statement of the reasons for such disapproval. Following any disapproval LOOKING GLASS may elect either to revise the plans and specifications and resubmit them to COUNTY pursuant to this paragraph or to contest the reasonableness of the disapproval. COUNTY approval or disapproval under this paragraph is recognized as being only in their roles as lessor and landowner, and does not affect its rights or duties as a regulatory governmental entity. The Construction shall conform in all significant respects with the approved plans and specifications except as otherwise authorized in writing by COUNTY.



7.5.3 Deliver to COUNTY such other proofs and copies as COUNTY shall reasonably request, including without limitation, proof that workers' compensation insurance has been procured to cover all persons employed in connection with the Construction and proof of issuance of all building and other permits required for the Construction.

7.5.4 LOOKING GLASS shall procure a performance bond to guarantee to COUNTY the performance of the Construction and the payment of laborers and material suppliers. The bond shall be issued by a company licensed to do business in the State of Oregon, in a form sufficient to meet the provisions of ORS Chapter 279 and in an amount equal to the full amount of the Construction.

7.5.5 During construction LOOKING GLASS shall regularly clean the parking lot of construction debris.

7.5.6 LOOKING GLASS shall install adequate security to protect the property of COUNTY not subject to this lease agreement.

7.5.7 LOOKING GLASS shall comply with all flood plain requirements in such a manner as to avoid draining COUNTY property not subject to the lease.

**7.6 Hazardous Waste.** LOOKING GLASS shall not dispose of, permit the escape of, generate, introduce, store, handle, discharge or release onto or beneath the surface of the Premises, any hazardous substance or contaminant.

## **SECTION 8. UTILITIES**

LOOKING GLASS shall pay when due all charges for electricity; natural gas, water, sewage, telephone, refuse collection and all other services or utilities used on or in connection with the Premises.

## **SECTION 9. OWNERSHIP OF IMPROVEMENTS**

All improvements constructed on the Premises by LOOKING GLASS shall be deemed as owned by LOOKING GLASS until expiration or sooner termination of this lease. All improvements located on the Premises at the expiration or sooner termination of this lease shall become the property of COUNTY, free and clear of all claims of LOOKING GLASS or anyone claiming under LOOKING GLASS, and LOOKING GLASS shall indemnify and defend COUNTY, its commissioners, officers, agents and employees against all liability and loss arising from such claims. Nothing in this paragraph shall alter other provisions of this lease, including without limitation provisions regarding removal or alteration of the building on the Premises.

## **SECTION 10. INSURANCE**

LOOKING GLASS shall procure and keep in force the following insurance:

**10.1 Fire and Hazard.** LOOKING GLASS shall throughout the lease term keep the Construction and all buildings on the Premises insured against loss by fire and other

hazards covered by a standard form of fire insurance policy with extended coverage endorsement including vandalism and malicious mischief The amount of the insurance shall not be less than the replacement cost of the insured improvements and shall also be sufficient to prevent LOOKING GLASS from becoming a coinsurer under the provisions of the policies. COUNTY shall not carry any insurance which would result in a reduction of the protection or payment to LOOKING GLASS under any insurance described above.

## **10.2 Proceeds of Fire and Hazard Insurance**

10.2.1 The proceeds of the policies described above shall be used to repair, restore and replace any damaged or destroyed improvements as provided in paragraph 8.3. COUNTY shall cooperate fully with LOOKING GLASS to obtain the largest possible recovery but COUNTY shall have no expense or cost in that connection.

10.2.2 All policies of insurance required by paragraph 11.1 shall provide that the proceeds shall be paid to LOOKING GLASS and the proceeds shall be deemed to be held in trust by LOOKING GLASS for the uses and purposes required by this sublease.

**10.3 Public Liability Insurance.** LOOKING GLASS shall procure and continuously maintain during the term of this lease public liability and property damage insurance with limits of \$1 million per occurrence. The insurance shall specifically provide coverage from risks from underground hazards for the period during which construction is being performed. The insurance shall be in a form sufficient to protect COUNTY and LOOKING GLASS against claims of third persons for personal injury, death or property damage arising from the use, occupancy or condition of the Premises or improvements on the Premises. COUNTY, its commissioners, officers, agents and employees shall be named as additional insureds on the policy.

**10.4 Workers Compensation Insurance.** LOOKING GLASS shall procure or cause to be procured Workers Compensation Insurance of at least statutory minimum limits sufficient to cover all persons employed in any construction on the premises throughout the term of the Construction, and shall procure and continuously maintain during the term of the lease Workers Compensation coverage of at least statutory minimum limits to cover all persons working on the Premises.

**10.5 General Insurance Provisions.** All policies of insurance which LOOKING GLASS is required by this sublease to carry shall:

10.5.1 Provide that the insurer waives the right of subrogation against COUNTY and that any loss shall be payable notwithstanding any negligence or affirmative act of COUNTY.

10.5.2 Be issued by a responsible insurance company which is licensed to practice in the State of Oregon.

10.5.3 Be primary policies. Be evidenced by certificates furnished to COUNTY bearing endorsement requiring ten (10) days' written notice to COUNTY prior to any change or cancellation of the policies.

## **SECTION 11. INDEMNITY**

**11.1 General Indemnity.** LOOKING GLASS shall indemnify COUNTY, its commissioners, officers, agents and employees from any liability that may arise from its use or occupancy of the Premises or failure to perform the terms of this lease.

**11.2 Liens.** Except as otherwise provided in this lease, LOOKING GLASS shall keep the Premises free and clear of all claims, liens, encumbrances and security interests of any nature, including but not limited to mechanics' and material suppliers' liens for labor performed or materials furnished. LOOKING GLASS shall indemnify and defend COUNTY, its commissioners, officers, agents and employees and hold them harmless from the imposition of any: such claims, liens, encumbrances or security interests.

**11.3 Hold Harmless.** In addition to and not in limitation of any other indemnity provided in this lease, LOOKING GLASS shall indemnify, save, defend, and hold COUNTY, its commissioners, officers, agents and employees harmless from and against any claim, liability, damage, or loss occurring on the Premises, arising out of or connected with any activity by Lessee, its agents, clients 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 by third parties.

## **SECTION 12. USE OF PREMISES**

**12.1 Use.** LOOKING GLASS shall use and permit the use of the Premises only for the operation and maintenance of a treatment program for juvenile offenders. This subsection may be modified to expand or further restrict the permitted uses of the property at any time by mutual agreement of the parties. Such agreement shall not be withheld unreasonably.

**12.2 Review of Use.** COUNTY shall have the right to periodically review LOOKING GLASS's use of the Premises to determine whether LOOKING GLASS's use is consistent with the permitted use stated above. The review will generally occur once every two years. If COUNTY believes the Premises are not being used in a manner consistent with this lease, COUNTY may proceed as described in Section 17 below.

**12.3 Adjacent Property.** LOOKING GLASS recognizes that COUNTY owns property immediately to the south of the Premises and has entered into a license agreement with the University of Oregon in which the University is utilizing that property for a practice field, a copy of which is attached hereto as Sublease Exhibit C. LOOKING GLASS agrees, during the term of the lease and so long as the license is in effect, to take no action which interferes with licensee's utilization of the property as described in the license.

## **SECTION 13. TAXES AND ASSESSMENTS**

**13.1 Payment by LOOKING GLASS.** LOOKING GLASS shall pay before delinquency all real and personal property taxes, general and special assessment, and

other charges of every description levied on or assessed against the Premises, improvements located on the Premises or personal property or fixtures located on the Premises or in the improvements during the lease term. LOOKING GLASS shall make all such payments directly to the taxing authority. If any such tax, assessment or charge may be paid in installments, LOOKING GLASS may elect to do so as long as each installment together with interest is paid before it becomes delinquent.

**13.2 Right to Contest.** LOOKING GLASS may contest in good faith the validity or amount of any tax, assessment or charge in accordance with the procedures established by statute or administrative rule for such contest so long as the Premises are not subjected to any lien as a result of the contest. LOOKING GLASS may prosecute such contest in the name of COUNTY as their attorney in fact. All tax contests shall be at the sole expense of LOOKING GLASS. Any return or rebate from any taxing authority on account of any tax or assessment which was originally paid by LOOKING GLASS shall be the sole property of LOOKING GLASS.

**13.3 Substitute Taxes.** For purposes of this section "real property taxes" include any tax levy or assessment enacted after the date of this lease in substitution for all or part of ad valorem real property taxes LOOKING GLASS would have been obligated to pay under paragraph 14.1, the purpose of which is more closely related to that of an ad valorem or use tax than to an income tax on COUNTY income, or any other tax, levy, assessment, imposition or charge measured by or based upon the Premises and imposed upon COUNTY. All such taxes shall be paid by LOOKING GLASS as provided above.

**13.4 Proof of Compliance.** LOOKING GLASS shall furnish to COUNTY receipts or other proof of payment of taxes and assessments within 30 days of making payment.

**13.5 Tax Exemption:** LOOKING GLASS shall be responsible for obtaining any tax exemptions for which it may be eligible.

## **SECTION 14. CONDEMNATION**

### **14.1 Total or Substantial Taking.**

14.1.1 A taking or condemnation shall be considered to be total or substantial if it includes all of the Premises or so much of the Premises that a reasonable amount of reconstruction would not make the land and improvements a practical development and reasonably suited for the uses and purposes for which the Premises were used just prior to the condemnation.

14.1.2 In the event of a total or substantial taking, the lease shall terminate as of the date title or possession passes to the condemning authority. All rent, additional rent and other charges payable by LOOKING GLASS under this lease shall be prorated as of the date of termination.

14.1.3 COUNTY shall be entitled to receive, regardless of when the taking occurs, that portion of the award which represents the value of the Premises considered as unimproved plus the value of site improvements in place at the time of execution of the

STATE-COUNTY lease and the value of the improvements made by COUNTY or paid for with COUNTY funds together with interest and costs in proportion to such land value.

14.1.5 LOOKING GLASS shall be entitled to the balance of the award.

14.1.6 The portion of the award received by LOOKING GLASS shall be deposited with any institutional mortgagee and shall be disbursed in the following order of priority:

- a. To pay any real and personal property taxes which are a lien on the Premises.
- b. To pay any note and mortgage which encumber the leasehold.
- c. To pay any other note and mortgage which encumbers the leasehold estate.
- d. To LOOKING GLASS.

#### **14.2 Partial Taking.**

14.2.1 This paragraph 14.2 shall apply to any taking or condemnation which is not subject to paragraph 14.1.

14.2.2 COUNTY shall be entitled to receive the portion of the award which represents the value of the Premises considered as unimproved, plus the value of the site improvements in place at the time of execution of the STATE-COUNTY lease, together with interest and a proportionate share of the costs awarded.

14.2.3 COUNTY shall be entitled to receive the portion of the award that represents the value of site improvements made by COUNTY or paid for with COUNTY funds.

14.2.4 LOOKING GLASS shall be entitled to receive the entire balance of the award.

14.2.5 LOOKING GLASS shall promptly restore the building and all improvements on the Premises as nearly as reasonably possible to the condition existing prior to the taking or condemnation. The award balance shall be used for such repair and restoration. To the extent that the award balance is insufficient for that purpose, LOOKING GLASS shall nevertheless make such repairs and restorations at LOOKING GLASS'S expense.

**14.3 Participation and Proceedings.** Either party receiving any notice of intended taking, any service of legal process relating to condemnation or any other notification in connection with any taking, condemnation or purchase, sale or transfer in lieu of condemnation shall promptly give the other party notice of such receipt. COUNTY, LOOKING GLASS and any leasehold mortgagee shall have the right to represent its respective interest in each such proceeding or negotiation and to make full

proof of its claims. No sale, transfer, agreement or settlement with the condemning authority shall be made without the consent of COUNTY and LOOKING GLASS. For purposes of this sublease, taking or condemnation includes a sale to a purchaser with the power of eminent domain in the face of a threat or the probability of the exercise of the power.

## **SECTION 15.           DEFAULT**

Each of the following events shall be a default by LOOKING GLASS and a breach of this sublease:

**15.1. Failure to Pay Rent.** Failure of LOOKING GLASS to pay any payment within ten days after it is due.

**15.2 Performance Failures.** Failure of LOOKING GLASS to perform any other term, condition or covenant of this lease within twenty (20) days after written notice from COUNTY specifying the nature of the failure with reasonable particularity. If the failure is of such a nature that it cannot be completely remedied within the twenty (20) day period, the failure shall not be a default if LOOKING GLASS begins correction of the failure within the twenty (20) day period and thereafter proceeds with reasonable diligence and in good faith to correct the failure as soon as practicable.

**15.3 Attachment.** Attachment, execution, levy or other seizure by legal process of any right or interest of LOOKING GLASS under this lease if not released within ten (10) days.

**15.4 Bankruptcy.** An assignment by LOOKING GLASS for the benefit of creditors, the filing by LOOKING GLASS of a voluntary petition in bankruptcy, the filing of an involuntary petition in bankruptcy and failure of LOOKING GLASS to secure a dismissal of the petition within thirty (30) days after filing, the appointment of a receiver to take possession of the Premises or improvements or the leasehold estate or of LOOKING GLASS'S operations on the Premises for any reason. For purposes of this paragraph the term "bankruptcy" includes all arrangements and chapters in the Bankruptcy Code.

**15.5 Abandonment.** Failure by LOOKING GLASS to use the Premises as described in Section 12.1 for a continuous period of one year unless said failure is the result of fire or similar catastrophe and LOOKING GLASS is making good faith efforts to resume use consistent with this agreement.

## **SECTION 16.           REMEDIES ON DEFAULT**

**16.1 Mortgagee's Notice and Right to Cure.** As a precondition to pursuing any remedy for a default by LOOKING GLASS under this sublease, COUNTY shall notify LOOKING GLASS and any qualifying mortgagee of the default and that the notice was for the purpose of notice under this paragraph. A qualifying mortgagee is the holder of a

mortgage then existing on the Premises relating to purchase or construction of improvements and of which COUNTY has been notified in writing pursuant to paragraph 4.1.3. Each mortgagee under a qualifying mortgage shall have ten (10) days after the notice just described to either cure the default or to commence foreclosure. If foreclosure is commenced, COUNTY shall not pursue any remedy for default during the pendency of the foreclosure proceedings so long as the qualifying mortgagee prosecutes it diligently to conclusion and pays all rents and performs all other covenants and conditions of this sublease requiring the payment or expenditure of money by LOOKING GLASS until the leasehold estate is released from the mortgage or until it is transferred or assigned to a new lessee who expressly assumes and agrees to pay and perform LOOKING GLASS'S remaining obligations under this sublease. LOOKING GLASS shall maintain the Premises or cause it to be maintained during the pendency of a foreclosure proceeding.

**16.2 COUNTY'S Right to Cure.** After expiration of the applicable period during which LOOKING GLASS or a qualifying mortgagee could cure, and before that in the event of an emergency, COUNTY may, but is not obligated to, make any payment required of LOOKING GLASS under this lease or under any note, mortgage or other document pertaining to the financing of improvements or fixtures on the Premises or perform or comply with any other covenant or condition imposed on LOOKING GLASS under this lease or under any such note, mortgage or document. All amounts so paid by COUNTY plus the cost of any performance or compliance, including attorney fees, plus interest on such sums at the rate of twelve (12) percent per annum from the date of payment, performance or compliance shall be deemed to be additional rent payable by LOOKING GLASS with the next due installment of rent, or thirty (30) days, whichever occurs first. No such payment or performance by COUNTY shall constitute a waiver of a default or of any other remedy for default or render COUNTY liable for any loss or damage resulting from any such payment or performance.

**16.3 COUNTY'S Remedies.** Upon default and after the notice period described in 16.1 above, COUNTY may elect any one or more of the following consistent remedies:

16.3.1 COUNTY may by notice to LOOKING GLASS and to any qualifying mortgagee terminate this lease as of the date of the notice. All of LOOKING GLASS'S rights in the Premises and in all improvements on the Premises including without limitation the Construction shall terminate as of the date of termination. Promptly after such notice LOOKING GLASS shall surrender and vacate the Premises and all improvements broom clean and in good condition. COUNTY may reenter and take possession of the Premises and of all improvements and eject some or all parties in possession. Termination under this paragraph shall not relieve LOOKING GLASS from the payment of any sum then due to COUNTY or from any claim for damages previously accrued or then accruing against LOOKING GLASS.

16.3.2 COUNTY may elect to re-enter the Premises without terminating this lease and from time to time re-let the Premises including any improvements or parts of improvements on the Premises for the account and in the name of LOOKING GLASS or otherwise. COUNTY may elect to eject some or all persons then in possession. Any re-letting may be for the remainder of the term or for a longer or shorter period and

COUNTY may execute any leases made under this provision either in COUNTY'S name or in LOOKING GLASS'S name. COUNTY shall apply all rents from the re letting first to the cost of re-entry and re-letting including reasonable attorney fees and then to rents and other amounts payable by LOOKING GLASS under this lease including without limitation any amounts which became payable prior to re-letting. LOOKING GLASS shall nevertheless pay to COUNTY on the due date specified in this sublease all sums payable by LOOKING GLASS under this lease, plus COUNTY'S expenses of retaking and re-letting including any attorneys fees, less amounts received by COUNTY from the re-letting, if any. No act by or on behalf of COUNTY under this paragraph shall constitute a termination of this lease unless COUNTY gives LOOKING GLASS and any qualifying mortgagee a notice of termination.

16.3.3 COUNTY may elect to use all or any part of LOOKING GLASS'S personal property and trade fixtures remaining on the Premises without compensation to LOOKING GLASS and without liability for use or damage; or COUNTY may store all or any of LOOKING GLASS'S personal property and trade fixtures for the account of and at the cost of LOOKING GLASS. The election of one remedy for any one item shall not preclude an election of any other remedy for another item or for the same item at a later time.

16.3.4 In the event of a termination COUNTY shall be entitled to damages in the following amounts:

a) any excess of the rental obligation of LOOKING GLASS under this sublease from the date of termination to the last day of the sublease term or renewal term in which termination occurs over the reasonable rental value of the Premises, including improvements, for such period of time.

b) for the reasonable cost of re-entry and re-letting, including the cost of any cleanup, broker's or finder's fees and attorney fees.

## **SECTION 17. SURRENDER ON TERMINATION**

**17.1 Surrender.** Upon termination or expiration of the lease term or renewal term, LOOKING GLASS shall surrender possession of the Premises to COUNTY, including all improvements then located on the Premises, free of occupants and broom clean, all in good condition except for reasonable wear and tear. All property that LOOKING GLASS is required to surrender shall become COUNTY'S property at the date of expiration of this lease or, at the option of COUNTY, the Premises shall be returned by LOOKING GLASS, at its cost, to as near to original condition as is reasonably possible. All property that LOOKING GLASS is not required to surrender, but that LOOKING GLASS does abandon shall, at COUNTY's election, become COUNTY's property on the date of expiration or termination of this lease

**17.2 Holdover.** Failure by LOOKING GLASS to vacate the Premises at the time specified in this lease shall not constitute a renewal or extension or give LOOKING GLASS any rights in or to the Premises or any improvements. Upon such a holdover, LOOKING GLASS shall defend and indemnify COUNTY from all liability and expense resulting from the failure or delay of LOOKING GLASS to timely surrender the



Premises including, without limitation, claims made by any succeeding tenant founded on or resulting from LOOKING GLASS'S failure to so surrender.

## **SECTION 18. MISCELLANEOUS**

**18.1 Non-waiver.** Waiver by either party of strict performance of any provision or term of this sublease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision or any other provision.

**18.2 Notices.** All notices under this sublease shall be effective on the earlier of actual receipt or two (2) days after deposit as registered or certified mail, return receipt requested, postage prepaid and addressed to COUNTY or LOOKING GLASS at the addresses stated below, or to such other address as either party may specify by notice to the other party:

LANE COUNTY  
c/o Director of Department of Youth Services  
2411 Martin Luther King Blvd.  
Eugene, OR 97401

LOOKING GLASS YOUTH AND FAMILY SERVICES, INC.  
c/o Marie Jackson  
72B Centennial Loop  
Eugene, OR 97401

### **18.3. Nondiscrimination.**

**18.3.1** LOOKING GLASS agrees that it will not discriminate by segregation or otherwise against any person or persons because of race, creed, color or national origin in the use of the Premises.

**18.3.2** LOOKING GLASS shall comply with the applicable provisions of the Americans with Disabilities Act of 1990, ORS 30.670 to ORS 30.685, ORS 659.425, ORS 659.430, and all regulations and administrative rules established pursuant to those laws, in the construction, remodeling, maintenance and operation of any structures, facilities and programs on the Premises.

**18.4 Severability.** The invalidity or illegality of any provision of this lease shall not affect the remainder of the lease.

**18.5 Governing Law.** This lease and the party's rights under it shall be construed and regulated by the laws of the State of Oregon.

**18.6 Memorandum of Lease.** At the request of either party the parties will execute and acknowledge a memorandum of lease in recordable form which shall include a legal description of the premises and the term of the lease, and either party may record the memorandum.

**Section 19. FORECE MAJEURE.**

If either party is delayed in, hindered in, or prevented from performance of any act required under this lease because of strike, lockout, labor trouble, inability to obtain materials, failure of power, restrictive governmental laws or regulations, riots, condemnation, insurrection, war, acts of God, or other reason of a similar nature not the fault of the party so delayed, then the performance of the act shall be excused for the period of delay, and the period for the performance of any such shall be extended for a period equivalent to the period of delay.

**Section 20. TEMPORARY EASEMENT.**

Looking Glass is granted a temporary easement for access and utilities as described in attached Exhibit "B". Said easement shall expire upon expiration or sooner termination of this lease agreement.

**LESSOR:** LANE COUNTY

By: \_\_\_\_\_  
William Van Vactor, County Administrator  
Pursuant to Order #

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

**LESSEE:** LOOKING GLASS

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

## **EXHIBIT "A"**

### **LEGAL DESCRIPTION OF LEASED PREMISES**

A parcel of land lying in the Southeast one-quarter of Section 29, Township 17 South, Range 3 West of the Willamette Meridian, and being a portion of the tract of land conveyed by that certain deed recorded on Reel 578-D, Reception No. 91000, Lane County Oregon Deed Records, and being more particularly described as follows:

Beginning at the Northeast corner of that tract conveyed by that deed recorded of Reel 578-D, Reception No. 91000, Lane County Oregon Deed Records, said point being North 112.76 feet, East 826.95 feet, North 60.72 feet and North 89° 24' 40" East 832.77 feet of the Southwest Corner of County Survey No. 1781; thence South 1° 22' 10" West 273.09 feet; thence South 89° 24' 40" West 241.47 feet; thence North 0° 37' 20" West 125.65 feet; thence North 89° 16' 57" East 85.13 feet; thence North 0° 38' 05" West 147.09 feet; thence North 89° 24' 40" East 165.86 feet to the place of beginning, containing 1.25 acres, more or less, in Lane County, Oregon.

## EXHIBIT "B"

### GRANT OF TEMPORARY EASEMENT AND MAINTENANCE AGREEMENT

For value received, receipt of which is hereby acknowledged, LANE COUNTY, a Political Subdivision of the State of Oregon (Grantor), hereby grants, transfers, and conveys to LOOKING GLASS YOUTH AND FAMILY SERVICES, INC. (Grantee), a temporary nonexclusive easement to use a strip of land variable feet wide, described as follows:

A parcel of land lying in the Southeast One-quarter of Section 29, Township 17 South, Range 3 West, Willamette Meridian, being described as follows:

Beginning at the Southwest corner of that tract conveyed by that certain deed recorded on Reel 578-D, Recorder's Reception No. 91000 of Lane County Oregon Deed Records, said point being North 112.76 feet, East 826.95 feet, and South 212.77 feet from the Southwest corner of County Survey No. 1781; thence along the south line of said tract North 88°57'30" East 70.0 feet; thence continuing along said south line North 89°24'40" East 514.78 feet; thence leaving said south line North 0°37'20" West 26.00 feet; thence South 89°24'40" West 449.49 feet; thence North 30.45 feet; thence South 89°24'40" West 135.00 feet to the west line of said tract; thence along said west line South 57.00 feet to the point of beginning in Lane County Oregon.

1. This easement is not personal or in gross but is to be appurtenant to each and every portion of the following described property leased by the Grantee from the Grantor for so long as the lease is in effect:

A parcel of land lying in the Southeast One-quarter of Section 29, Township 17 South, Range 3 West, Willamette Meridian, being described as follows:

Beginning at the Northeast corner of that tract conveyed by that deed recorded on Reel 578-D, Recorder's Reception No. 91000 of Lane County, Oregon Deed Records, said point being North 112.76 feet, East 826.95 feet, North 60.72 feet, and North 89° 24' 40" East 832.77 feet of the Southwest Corner of County Survey No. 1781; thence South 1° 22' 10" West 273.09 feet; thence South 89° 24' 40" West 241.47 feet; thence North 0° 37' 20" West 125.65 feet; thence North 89°16' 57". East 85.13 feet; thence North 0° 38' 05" West 147.09 feet; thence North 89° 24' 40" East 165.86 feet to the place of beginning, containing 1.25 acres, more or less, in Lane County, Oregon.

2. This easement is granted over and across property described as follows:

A parcel of land lying in the Southeast One-quarter of Section 29, Township 17 South, Range 3 West, Willamette Meridian, being described as follows:

Beginning at the Northeast corner of that tract conveyed to Lane County by that deed recorded on Reel 103-57-D, Recorder's Reception No. 18770 of Lane County, Oregon Deed Records, said point being 112.76 feet North and 826.95 feet East of the Southwest corner of County Survey No. 1781; thence South 212.77 feet to the Northwest corner of that tract conveyed to Lane County by that deed

Easement Agreement - Lane County & Looking Glass

recorded on Reel 214-D, Recorder's Reception No. 3793; thence North 88° 57' 30" East 70.0 feet; thence North 89° 24' 40" East 756.25 feet; thence North 1° 22' 10" East 273.09 feet, to the Southerly line of a Diversion Floodway; thence along said Diversion Floodway line South 89° 24' 40" West 832.77 feet to a point due North of the place of beginning; thence South 60.72 feet to the place of beginning, containing 5.2 acres, more or less, in Lane County, Oregon.

3. This grant is made upon the following terms:

3.1. Grantee is granted the right to use the variable foot easement strip, including the existing roadway, as a means of ingress and egress to and from the land described in paragraph 1, or any portion thereof. Grantee is further granted the right to use the described strip for the installation and maintenance of such public utilities as may be needed to serve the property described in paragraph 1, or any portions thereof. The Grantee will install their own utilities and repair the roadway/easement area after installation of said utilities. Road construction and utilities installation will be completed in a timely manner and at a time that is convenient to Grantor.

3.2 Grantor and Grantee shall at all times be jointly responsible for maintaining the easement in a condition satisfactory to Grantor. Grantor shall repair and maintain the easement (except in the event that Grantee is installing utilities, as discussed in paragraph 3.1). Grantee shall reimburse Grantor for one-half of the cost incurred by Grantor for repair and maintenance within 60 days of Grantor's request. Failure to meet Grantee's obligations shall be grounds for terminating this Grant of Temporary Easement and Maintenance Agreement; however, Grantee is not responsible for costs for any repairs needed at the time this easement is executed.

3.3 Grantor shall, at all times and without restriction, have the right to use the easement property and roadway for purposes not inconsistent with Grantee's full enjoyment of the rights herein granted.

3.4 This temporary easement shall expire upon expiration or sooner termination of the lease agreement between Grantor and Grantee.

3.5 This grant of temporary easement shall run with the land and shall be binding on and shall inure to the benefit of Grantor and Grantee, their heirs, successors and assigns.

## EXHIBIT "C"

### LICENSE AGREEMENT

THIS AGREEMENT, made by and between LANE COUNTY, a political subdivision of the State of Oregon, hereinafter called COUNTY, and STATE DEPARTMENT OF HIGHER EDUCATION by and through the UNIVERSITY OF OREGON ATHLETIC DEPARTMENT, hereinafter called LICENSEE;

#### W I T N E S S E T H:

That in consideration of LICENSEE's promises herein, COUNTY hereby gives permission to LICENSEE to enter the approximately five (5) acres of COUNTY-owned property immediately west of the Eugene Elks' Club property, more particularly described as the easterly five (5) acres of Tax Lot 402 as shown on Lane County Assessor's Map No. 17-03-29-4, and as described on attached Exhibit A for the purposes and under the terms and conditions hereinafter set forth, which LICENSEE promises to comply with and abide by.

#### I.

The purpose of this agreement is to permit LICENSEE to use the above-described COUNTY property for the purpose of a practice field for the LICENSEE'S football team from August 29, 1984 until August 29, 1985.

#### II.

LICENSEE agrees to maintain the parcel in a clean and safe

condition. This includes regular care and mowing of all vegetation located on the parcel. It does not include lighting or fencing, unless LICENSEE chooses to install same.

III.

LICENSEE agreed to defend, indemnify and hold COUNTY harmless from and against all claims and demands through loss or damage, including property damage, personal injury or wrongful death, arising out of and substantially caused by the activities of LICENSEE on the premises, subject only to the limitations of Ore. Const. art. XI secs. 7 and 8.

IV.

LICENSEE is a unit of a state agency and is covered by ORS 30.260, .270, .275, .285, and .295 which, among other things, provides for coverage of liability up to \$300,000 per occurrence.

V.

LICENSEE shall have the right to install a natural grass practice football field, necessary irrigation facilities and other facilities incidental and subordinate thereto.

VI.

The LICENSEE may request renewal of this agreement annually. If a longer term agreement is desired, LICENSEE and COUNTY mutually agree to enter into good faith negotiations upon notice by the LICENSEE that a longer term agreement is desired. In the event of nonrenewal, LICENSEE shall have no obligation to restore

the parcel to its current condition and all improvements, except any buildings, installed by the LICENSEE shall become the property of the COUNTY provided that within 60 days after the expiration of this License Agreement or any renewal thereof, said buildings are removed by Licensee at its own expense or they shall become the property of the County. No claims for indemnification under Section III hereof shall be made based on the design, installation, or condition of said improvements where the injury or loss occurs after the expiration of this license or any renewals thereof.

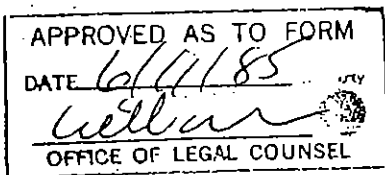
If either party does not intend to renew this agreement, it must give the other party written notice thereof by July 29 of each year. In the event written notice is not provided, the agreement shall be deemed automatically renewed.

DATED this 13<sup>th</sup> day of JUNE, 1985.

LANE COUNTY, OREGON: COUNTY

By: *James L. Johnson*  
County Administrator

DATED: 6-13-85



STATE DEPARTMENT OF HIGHER EDUCATION  
UNIVERSITY OF OREGON ATHLETIC  
DEPARTMENT: LICENSEE

By: *Michael A. Walker*  
Title: VICE-PRESIDENT

DATED: 5-29-85



ATTACHMENT 'A'

LEGAL

Beginning at a Point which is 100.01 feet South 826.95 feet East and N.88°57'30"E. 70.0 feet from the SW corner of Co. Survey No. 1781, thence South 130.0 feet thence N.88°57'30"E. 250.0 feet thence South 350.0 feet thence N.88°57'30"E. 494.89 feet thence N.01°22'10"E. 474.37 feet, thence S.89°24'40"E. 756.25 feet more or less to the Point of Beginning.

Less: 0.45 acre in Co. Rd. No. 1304 Containing more or less.

Containing more or less                      5.85 Acres

ATTACHMENT "A"

S.E. 1/4 Section 29, T. 17 S., R. 3 W.W.M.  
LANE COUNTY  
1" = 200'

EUGENE-SPRINGFIELD HIGHWAY (I-105)

CENTENNIAL BLVD.  
COUNTY ROAD NO. 1304

