

35887

LEASE OF REAL PROPERTY

Vol. m Page 8

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Journal

THIS LEASE is made by and between KLAMATH COUNTY, a political subdivision of the State of Oregon, hereinafter referred to as Lessor, and KLAMATH COUNCIL ON ALCOHOL AND DRUGS, an Oregon non-profit corporation, hereinafter referred to as Lessee for the following described real and personal property subject to the following terms, conditions, and restrictions:

In consideration of the covenants and provisions contained herein, the parties agree as follows:

1. Description of Premises: Lessor agrees that it is the sole owner of the below described real property and that it has the authority to enter into a lease for the rental and term mentioned below:

All the following described real property  
situated in the Klamath County, Oregon:

A tract of land located in the SE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 15, T.39s., R.9E., W.M., Klamath County, Oregon more particularly described as follows:

Commencing at the east one-quarter corner of said Section 15; thence North  $14^{\circ} 23' 12''$  West, 717.25 feet to a point on the southerly right-of-way line of the A-3 Lateral for the true point of beginning; thence South  $74^{\circ} 49' 38''$  West, 86.24 feet; thence southwesterly, 140.77 feet along the arc of a 110.00 foot radius curve to the left (the long chord of which bears South  $38^{\circ} 09' 48''$  West, 131.37 feet); thence south  $01^{\circ} 29' 59''$  West, 22.29 feet; thence southwesterly 96.39 feet along the arc of a 61.91 foot radius curve to the right (the long chord of which bears South  $46^{\circ} 06' 20''$  West, 86.95 feet); thence North  $89^{\circ} 17' 18''$  West, 54.66 feet; thence North  $39^{\circ} 40' 49''$  East, 323.01 feet to the southwesterly boundary of the A-3 Lateral; thence South  $50^{\circ} 04' 03''$  East, along said Lateral boundary, 30.86 feet; thence southeasterly, 124.67 feet along the arc of a 129.59 foot radius curve to the left (the long chord of which bears South  $77^{\circ} 37' 13''$  East, 119.89 feet) to the true point of beginning, containing 2.01 acres, more or less.

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This property is commonly known as the old Klamath County Nursing Home and Convalescent Center situated at 5160 Summers Lane, Klamath Falls, Oregon.

Said lease includes all permanent furniture, furnishings, and fixtures located on said property together with the following personal property described in Exhibit "A", attached hereto and by reference incorporated as fully as if set out in the body of this agreement.

2. Rental and Term: This lease shall be for a period of ten (10) years commencing at 12:01 A.M. on the 20th day of January, 1982 and ending at Midnight on the 20th day of January, 1992.

3. Successive Terms: Beginning with the expiration date of the original lease, unless the option to renew is withdrawn on or before the ninth (9th) anniversary of the lease, Lessor grants to Lessee an exclusive option to automatically renew for continuous successive periods of ten (10) years. It is intended and agreed between Lessor and Lessee that this lease shall be subject to automatic renewal in perpetuity unless Lessor gives written notice no less than one year prior to the intended date of termination. Notice shall be given in writing in the manner provided in paragraph 28 below.

Lessee is presently in the process of obtaining funds to install a Geothermal Well on the premises. If this action is taken, both parties agree that Lessee will be reimbursed for any unamortized portion of this Geothermal Well if either party decides to cancel said lease agreement.

4. Consideration for lease: It is expressly agreed and understood between Lessor and Lessee that the consideration for this lease and any extension thereof, shall be lessee's prompt and diligent maintenance and repair of the grounds, structures..... and personal property leased pursuant to this lease, together with the prompt payment of all capital repairs and expenditures necessary to retain the structure in its present condition, reasonable wear and tear excepted, pursuant to provisions of paragraph 5 below.

5. Repairs and Improvements to Real Property: Lessor shall not

be required to make any repairs, alterations, additions or improvements to or upon the leased premises during the term of this lease other than repair of the steam boiler and heat distribution system as as hereinafter specifically provided.

Lessee hereby agrees to maintain and keep the leased premises including all interior and exterior doors, heating, ventilating, and cooling systems, interior wiring, plumbing, and drain pipes, sewers, septic tanks, exterior walls, roof gutters, downspouts, foundations, and sidewalks, in good order and repair during the entire term of this lease and replace all glass which may be broken or damaged during the term hereof in the windows and and doors of said premises with glass of as good or better quality as that now in use. It is expressly agreed and understood between Lessor and Lessee that one of the steam heating boilers and the accompanying hot water distribution system located within the building may require substantial repair or alteration during the term of this lease or extensions thereto. In the event it becomes necessary to repair or replace said boiler or steam heating lines due to system failure, decertification of the system, or the eminent occurrence of either, Lessor shall contract for and pay the costs of any repair reasonably deemed necessary by Lessor.

Lesser reserves at any and all times the right to alter, repair or improve the heating system and for that purpose Lessor, it's officers, agents, employees, or contractors, and workmen may enter upon the leased premises during normal working hours to effect reconstruction, repair or alterations with such materials, equipment or workers as Lessor deems necessary therefore, and Lessee waives any claims for damages including loss of use or loss of business resulting therefrom. Lessor and Lessee further agree that the cost of repair of the steam boiler or heat distribution system shall be paid by Lessor when completed, and proportionately reimbursed to Lessor by Lessee by the following formula:

Lessee shall reimburse Lessor at the rate of one-half of one percent per month in advance for the total costs of repair beginning on the first monthly anniversary of the date repairs are completed, with a like monthly payment due

during the entire term of this lease to and including the 18th anniversary of this lease if extended for that period. Lessee further shall pay to Lessor within one year after the date of completion of repair a sum of money calculated by multiplying the number of months of possession of the premises under this lease and any extension thereof up to and including the month in which repairs on the system were completed, multiplied by one-half of one percent per month for that period, multiplied by the total costs of repairs to the system. However the lump sum payment shall in no case exceed the sum of \$4,200.00.

6. Use of Premises: Lessor and Lessee agree that the real and personal property shall be used during the term of this lease for the operation of an alcohol and drug abuse rehabilitation center, for in-patient facilities, for alcohol and drug abuse rehabilitation activities, and for all uses incidental thereto. Lessee will make no other use of the premises without Lessor's written consent. Lessee will make no unlawful or offensive use of the premises; nor cause to be removed any equipment, fixtures, partitions; cause or permit physical, aesthetic or other damage, or diminish the value of the structure or commit any waste thereon; will not permit objectionable noise or odor to escape from or to be emitted from the premises in any way tending to create a nuisance. The Lessee shall not allow the leased premises at any time fall into a state of disrepair or disorder which would cause or permit damage or disintegration of the structure from the elements or to permit any condition which would increase a fire hazard upon the building. Lessee shall not install any power machinery on the premises except under the supervision or the written consent of Lessor and shall not store gasoline or other highly combustible materials on the leased premises except in storage areas specifically designated for such purpose.

7. Inspection and Alterations: Lessor hereby reserves the right to designate one or more officers, agents or employees to inspect the leased premises on a quarterly basis. In the event of any damage, destruction, or

LEASE OF REAL PROPERTY, PAGE FOUR

condition found on the leased premises requiring repair, Lessor shall give written notice to Lessee of the deficiencies found on the premises and advise of the method of correction. All repairs shall be completed by Lessee in a reasonable period of time. Lessee will not make or permit any additions, changes or alterations in the premises without first obtaining the written permission of Lessor except for work not exceeding \$500 in costs. As the condition for giving consent, Lessor may require Lessee to remove any such alterations, improvements, additions, or utility installations at the expiration of the term to restore the premises to its prior condition. Before commencing any work for alterations, additions, improvements affecting the premises, Lessee shall notify Lessor in writing of the expected date of commencement thereof. Lessor shall then have the right at any time and from time to time to post and maintain on the premises such notice as Lessor reasonably deems necessary to protect the premises and Lessor from mechanics liens, or other liens. In any event, Lessee shall pay when due all claims for labor or materials furnished to or for Lessee at or for use in the premises. Lessee shall not permit any mechanics or Materialmens liens to be levied against the premises for any labor or materials furnished to Lessee or claimed to have been furnished to Lessee or to Lessee's agents or contractors in connection with work of any character performed or claimed to have been performed on the premises by or at direction of Lessee.

8. Removal of Equipment: Unless Lessor requires removal, all alterations, improvements or additions which may be made part of the premises, shall become the property of Lessor and remain upon or be surrendered with the premises at the expiration of this lease. However, Lessee's machinery, equipment and trade fixtures other than that which is affixed to the premises so that it cannot be removed without material damage to the improvements, shall remain property of the Lessee and may be removed by Lessee prior to the date

LEASE OF REAL PROPERTY, PAGE FIVE

of surrender of the premises.

9. Condition of Premises: Lessee hereby accepts the premises in the condition existing as of the date of possession hereunder, subject to all applicable zoning, municipal, county, and state laws, ordinances and regulations governing regulating use of the premises and accepts this lease subject thereto and all matters as disclosed thereby and any exhibits attached thereto. Lessee acknowledges that neither Lessor nor Lessor's officers, agents, or employees have made any representations or warranty as to the suitability of the premises for the conduct of Lessee's business. Lessee shall at it's expense comply promptly with all applicable statutes, ordinances, rules and regulations in effect during the term of any part of the term hereof regulating the use by Lessee of the premises. Lessee shall not use or permit the use of the premises in any manner which will tend to create waste or nuisance.

10. Utilities: Lessee shall pay for all electricity, gas, fuel, oil, water, sewer, and all other services or utilities used in the above leased premises during the term of this lease.

11. Real and Personal Property Taxes: Lessee shall pay all real or personal property taxes applicable to the premises during the term of this lease in the event that any of the real property or personal property is not otherwise exempt from state or local taxes. Payments by taxes shall be made on or before the due date as established by the local taxing authority. If the term of this lease shall not expire concurrently with the expiration of the fiscal year, Lessee's liability for taxes for the last partial lease period shall be prorated between the parties. As used herein, the term "real property tax" shall include any form of assessment, license fee, rent, tax, levy, penalty, imposed by any authority having the direct or indirect property tax including any city, county, state or federal government; any school, agricultural, lighting, drainage, or other improvement district thereof as against any legal or equitable interest of the Lessor in the premises or in the real

LEASE OF REAL PROPERTY, PAGE SIX

property of which the premises are a part.

2456

12. Special Assessments: In the event of any special assessment for water, sewer, highway lighting, road street or sidewalk improvements, Lessee shall pay to Lessor one two hundred and fortieth of the principal amount of the assessment per month during each and every month of the term of this lease and any extensions thereto and including the 20th anniversary of the date that such improvement assessment became due and payable.

13. Fire and Casualty Insurance: Lessee hereby agrees to procure and maintain fire and casualty insurance of the structure insuring it to cost of replacement. It is agreed and understood between the parties that the initial fire and casualty insurance shall be taken out on the structure in the amount of \$500,000.00. If Lessee fails to procure and maintain said insurance, the Lessor may but shall not be required to procure and maintain the same but at the expense of Lessee. Lessor and Lessee expressly agree that the policy limit of insurance mentioned above shall be subject to periodic review every two years on the anniversary date of this lease as to the reasonable sufficiency of said limit. In the event of dispute between Lessor and Lessee as to the sufficiency of the limits, the dispute shall be settled by arbitration in the following manner: Lessor and Lessee shall each select an arbitrator and the two arbitrators so selected shall hear and determine the controversy. Their decision thereon shall be final and binding upon both Lessor and Lessee who shall bear the costs of such arbitration equally between them. Should arbitration fail for any cause, either Lessor or Lessee hereto may invoke if need be equitable jurisdiction in any appropriate court to determine the amounts of said fire and casualty insurance.

14. Ice, Snow, and Debris: Lessee shall keep the sidewalks in front of the leased premises free and clear of ice, snow, rubbish, debris or obstructions which may be dangerous to pedestrians or motor vehicles passing the property. Further Lessee shall maintain any lawn, garden or other planted

area in aesthically pleasant condition.

2457

15. Liability Insurance: Lessee shall obtain and keep in force during the term of this lease a policy of comprehensive public liability arising out of the ownership, use, occupancy, or maintenance of the premises and all areas appurtenant thereto. Such insurance shall be in an amount of not less than \$300,000.00 for injury to or death of any one person in any one accident or occurrence in an amount of not less than \$500,000.00 for injury to or death of more than one person in any one accident or occurrence. Such insurance shall further insure Lessor and Lessee against liability for property damage of at least \$50,000.00. The limits of said insurance shall not, however, limit the liability of Lessee hereunder. If the Lessee shall fail to procure and maintain said insurance, the Lessor may, but shall not be required to, procure and maintain the same, but at the expense of Lessee. Lessor and Lessee expressly agree that the limits of liability insurance mentioned above shall be subject to periodic review every two years on the anniversary date of this lease as to the reasonable sufficiency of said limits.

16. Hold Harmless: Lessee shall indemnify, defend and hold Lessor harmless from any and all claims arising from Lessee's use of the premises or from the conduct of its business or from any activity, work, or other things which may be permitted or suffered by Lessee in or about the premises and shall further indemnify, defend and hold Lessee harmless from and against any and all claims arising from any breach of default in the performance of any obligation on Lessee's part to be performed under the provisions of this lease or arising out of any negligence of Lessee or any of its agents, contractors, employees, or invitees and from any and all costs, attorney's fees, expenses and liabilities incurred in the defense of any claim or any action or proceeding brought thereon. Lessee hereby assumes in full force and effect.

17. Exemption of Lessor from Liability: Lessee hereby agrees that Lessor shall not be liable for injury to Lessee's business or any loss of income therefrom or for damage to the goods, wares, merchandise, or other person in or about the premises; nor, unless through its negligence, shall Lessor be liable for injury to the person of Lessee, Lessee's employees, agents or contractors and invitees, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water, rain or from the breakage, leakage, obstruction, or other defects of pipes, sprinklers, wires, appliances, plumbing air conditioning, or lighting fixtures, or from any other cause, whether the said damage or injury results from any other cause, whether the said damage or injury results from conditions arising upon the premises and regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible to Lessor or Lessee.

18. Waiver of Subrogation: Lessee and Lessor each waives any and all rights of recovery against the other, or against the officers, employees, agents and representatives of the other, for loss or damage to such waiving party or its property or the property of others under its control, where such loss or damage is insured against any insurance policy in force at the time of such loss or damage.

19. Damage or Destruction:

A. Partial Damage: If the premises are damaged and such damage was caused by a casualty covered under an insurance policy, and the costs of repair of such damage is 25% or less of the full insurable value of the premises, then Lessor shall repair the damages as soon as reasonably possible and this lease shall continue in full force and effect. If the insurance proceeds received by Lessor are not sufficient to effect such repair, then Lessor shall give notice to Lessee of the amount required in addition to the insurance proceeds to effect such repair. Lessee may, at its option, contribute the required amount,

but upon failure to do so within thirty (30) days following notice, Lessor's sole remedy shall be, at Lessor's option, and with no liability to Lessee to cancel and terminate this Lease. If Lessee shall contribute such amount to Lessor within thirty (30) day period, Lessor shall make such repairs as soon as reasonably possible and this lease shall continue in full force and effect. Lessee shall in no event have any right to reimbursement for any such amount so contributed. In the event the premises may be damaged or destroyed by casualty which is not covered by fire and extended coverage insurance carried by Lessee, Lessor shall not be required to restore the same if damage or destruction is to an extent greater than 10% of the then replacement cost of improvements on the premises. If Lessor elects not to restore, it must give Lessee written notice within 30 days from the date of damage, and if not given, Lessor shall be deemed to have elected to restore and in such event shall repair any damages as soon as reasonably possible. In the event Lessor elects to give notice of Lessor's intention to cancel and terminate this lease, Lessee shall have the right within ten days after receipt of such notice to give written notice to Lessor of Lessee's intention to repair such damage at Lessee's expense without reimbursement from Lessor, in which event this lease shall continue in full force and effect and Lessee shall proceed to make such repairs as soon as reasonably possible. If Lessee does not give such notice within ten day period, this lease shall be cancelled and terminated as of the date of occurrence of such damage.

B. Total Destruction: In the event of damage to the premises by fire or other casualty to the extent of 25% or more of the replacement costs of improvements on the premises, the Lessor may or may not elect to repair said building at its discretion. Lessor must give Lessee written notice of it's election not to restore said building within 30 days from the date of this damage and if not given, Lessor shall be deemed to have elected to restore and in such event, shall repair any damages as soon as reasonably possible.

20. Repair of Structure: In the event Lessor is required or elects to repair said premises, all repair work shall be done with convenient speed and Lessor shall have the right to take possession of and occupy to the exclusion of Lessee all or any part of said building in order to make the necessary repairs and Lessee hereby agrees to vacate upon request all or any part of said building which the Lessor may require for the purpose of making necessary repairs and for the period of time between the day of such damage and until such repairs have been substantially completed there shall be such an abatement of an obligation to pay fire and casualty insurance, repairs or improvements, assessments against the property as the nature of injury or damage has interference with the occupancy of said leased premises by Lessee shall warrant; however if the premises be but slightly injured and the damage so occasioned shall not cause any material interference with the occupation of the premises by Lessee, then there shall be no abatement or obligation and Lessor shall repair said damage with all convenient speed.

21. Assignment and Subletting: Lessee shall not voluntarily or by operation of law assign, transfer, mortgage, sublet, or otherwise transfer or encumber all or any part of Lessee's interest in this lease or in the premises without Lessor's prior written consent. Any attempted assignment, transfer, mortgage, encumbrance, or subletting without such consent shall be void and shall constitute a breach of this lease. Regardless of Lessor's consent, no subletting or assignment shall release Lessee of Lessee's obligation to pay the rent and to perform all other obligations to be performed by Lessee hereunder, for the term of this lease. The acceptance of consideration by Lessor from any other person shall not be deemed to be a waiver by Lessor of any provisions hereof. Consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting.

22. Default: The occurrence of any one or more of the following events shall constitute a default and breach of this lease by Lessee:

- (a) The vacating or abandonment of the premises by Lessee.
- (b) The failure by Lessee to make any payment due under the terms of this lease as and when due or such failure shall continue for a period of ten (10) days after written notice thereof from Lessor to Lessee.
- (c) The failure by Lessee to observe or perform any of the covenants, conditions or provisions of this lease to be observed or performed by Lessee, or such failure shall continue for a period of 30 days after written notice thereof from Lessor to Lessee; provided, however, that if the nature of Lessee's default is such that more than 30 days are reasonably required for its cure, then Lessee shall not be deemed to be in default if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(d) If Lessee shall be declared bankrupt or insolvent according to law or if any assignment of Lessee's property shall be made for the benefit of creditors.

23. Remedies in Default: In the event of any such default or breach by Lessee, Lessor may at any time thereafter, with or without notice or demand and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such default or breach, terminate Lessee's right to possession of the premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession of the premises to Lessor. In such event Lessor shall be entitled to recover from Lessee all damages incurred by Lessor by reason of Lessee's default including, but not limited to, the cost of recovering possession of the Premises; the expenses of reletting, or closing the premises including necessary renovation and alteration of the premises, reasonable attorney's fees, all unpaid compensation due Lessor or other sums due and payable through the term of this

2462

lease or its extension thereon shall bear interest from the date due at the legal rate of interest as established by state law.

24. Default by Lessor: Lessor shall not be in default unless Lessor fails to perform any obligations required by Lessor within a reasonable time, but in no event later than 30 days written notice by Lessee to Lessor specifying wherein Lessor's failure to perform such obligation; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are required for performance then Lessor shall not be in default if Lessor commences performance within such 30 day period and thereafter diligently prosecutes the same to completion.

25. Condemnation: If the premises or any portion thereof are taken under the power of eminent domain, or sold by Lessor under the threat of the exercise of said power, this lease shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first. If any portion of the floor area of any buildings on the premises or more than 25% of the land area of the premises are not covered by the building is taken by condemnation either Lessor or Lessee may terminate this lease as of the date the condemning authority takes possession by notice in writing of such election within 20 days after Lessor shall have notified Lessee of the taking or in the absence of such notice within 20 days after the condemning authority shall have taken possession. In the event of condemnation whether or not the lease is so terminated, Lessee agrees that it shall not be entitled to any award for the taking of any part of the premises except that Lessee shall be entitled to any award for loss of or damage to Lessee's trade fixtures and removable personal property.

26. Delivering Up Premises on Termination: At the expiration of said term or upon any sooner termination thereof, the Lessee will quit and deliver up said leased premises and all future erections or additions to or upon the same, broom-clean to the Lessor peaceable, quietly, and in as good order

LEASE OF REAL PROPERTY, PAGE THIRTEEN

2463

and condition, reasonable use and wear thereof, damage by fire, unavoidable casualty and damage by the elements alone excepted, as the same are now in or hereafter may be put in by the Lessor.

27. Delivering Up Personal Property on Termination: The expiration of the term of this lease or upon any sooner termination hereof, Lessor and Lessee shall cause to be taken a physical inventory of all personal property to be surrendered pursuant to this lease. It is expressly agreed and understood between the parties that Lessee shall deliver the property to Lessor in good order and condition, reasonable use and wear thereof. Lessee further agrees to pay within 30 days following the date of expiration of this lease the reasonable replacement cost of any and all personal property which has been lost, damaged, or destroyed during the term of this lease.

28. Notice: All notices required by the term of this lease to be given by one party to the other, shall be deemed given if hand delivered in writing to the other party or after five days from the date of posting in the mails of the United States with postage prepaid addressed to the parties at the following addresses:

LESSOR: Klamath County Commissioners  
Klamath County Courthouse  
Klamath Falls, Oregon 97601

LESSEE: Klamath Council on Alcohol and Drugs  
5160 Summers Lane  
Klamath Falls, Oregon 97601

29. Assignee's Rights: All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit or and hind, as the circumstances may require the heirs, executors, administrators, successors and, so far as this lease is assignable by the term hereof, to the assigns of such parties.

In construing this lease, it is understood that the Lessor or the Lessee may be more than one person; that if the context so requires, the singular

LEASE OF REAL PROPERTY, PAGE FOURTEEN

2464  
pronoun shall be taken to mean and including the plural, the masculine,  
the feminine and the neuter, and that generally all grammatical changes  
shall be made, assumed and implied to make the provisions hereof apply  
equally to corporations and to individuals.

IN WITNESS WHEREOF, the respective parties have executed this  
instrument in duplicate on this, the day and year first hereinabove written,  
any corporation signature being by authority of it's Board of Directors.

KLAMATH COUNCIL ON ALCOHOL AND DRUGS

Saul O. Hedden

PRESIDENT

Saul Riedy

SECRETARY

BOARD OF COUNTY COMMISSIONERS

Ree Kuonen 2/6/81

CHAIRMAN

Hayd L. Wynne 2/6/81

COMMISSIONER

Oliver T. Cheyne 2/6/81

COMMISSIONER

LEASE OF REAL PROPERTY, PAGE FIFTEEN

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the  
13th day of February A.D., 1981 at 11:27 o'clock A.M., and duly recorded in

Vol M81 of Deeds on Page 2450

Fee \$ None

EVELYN BIEHN

DU 11/21/81

By Berntha A. Hitchcock deputy