

**CITY OF COOS BAY
TIMBER SALE CONTRACT
2014 TIMBER SALE**

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TIMBER SALE CONTRACT

CITY OF COOS BAY 2014 TIMBER SALE

This contract made and entered into between the City of Coos Bay ("Seller") and _____ ("Buyer"), on April, _____, 2014.

RECITALS:

Whereas, Seller owns and represents owners (Coos Bay North Bend Water Board) of forestland in Coos County, Oregon, and is willing to sell certain timber located on this forestland, subject to the terms and conditions of this contract, and

Whereas, Buyer desires to purchase such timber, subject to the terms and conditions of this contract,

Now therefore, in consideration of the mutual agreements contained herein, the Seller and Buyer agree as follows:

- 1) **DESIGNATED TIMBER AND DEFINITIONS.** Seller hereby agrees to sell and Buyer hereby agrees to buy all the designated merchantable timber on the City of Coos Bay 2014 Timber Sale, which is located within the boundaries of the following described forestland situated in Coos County, Oregon:

Portions of Sections 28 and 29, Township 25 South, Range 13 West, W.M., Coos County, Oregon,

more particularly described on Exhibits "A" and "B" which are attached hereto and incorporated herein by reference, the boundaries of which are marked on the ground with pink flagging and "Timber Sale Boundary" signs, EXCEPT those trees and logs designated by the Buyer which are to be left lying and standing for wildlife trees and protected by the Buyer. Buyer shall cut all such designated merchantable timber and shall yard and remove all merchantable logs produced from such timber.

The term "merchantable log" means a log which will meet the minimum standards for General or Special Scale under the Official Log Scaling and Grading Rules authored by the Northwest Log Rules Advisory Group, as amended to the date of this contract, and also include "tonnage" pulp wood.

As used in this contract, the term "wildlife tree" means those trees proposed in the logging plan and approved by the State Board of Forestry, which are designated for wildlife habitat and preservation. As used in this contract, "slash" means all refuse resulting from Buyer's logging operations.

2) **PRICE AND ECONOMIC PROVISIONS:**

A. **PURCHASE PRICE:** This is a recovery timber sale. The purchase price for timber removed from the sale area shall be as follows for given species and grades:

<u>Species</u>	<u>Purchase Price</u>
Douglas fir, No. 4 Sawmill Better, Net Scale	\$ _____/M
Conifer, Special Cull, Adjusted Gross Scale	\$ _____/M
Conifer, Peelable Cull, Adjusted Gross Scale	\$ _____/M
Conifer, Utility Cull, Adjusted Gross Scale	\$ _____/M
	And \$ _____/ton
Hemlock, No. 4 Sawmill & Better, Net Scale	\$ _____/M
Grand Fir, No. 4 Sawmill & Better, Net Scale	\$ _____/M
Spruce No. 4 Sawmill & Better, Net Scale	\$ _____/M
Port Orford-cedar No. 4 Sawmill & Better, Net Scale	\$ _____/M
Red cedar, No. 4 Sawmill & Better, Net Scale	\$ _____/M
Red alder, Net Scale	\$ _____/M
	And \$ _____/ton
Misc. Hardwood Pulp	\$ _____/ton

B. **PRICE CALCULATION:** This is a recovery timber sale. The total purchase price shall be determined by multiplying the purchase price per M.B.F. or ton for each species set forth in this section by the total weight or scale volume of each species provided for in this section.

C. **INSTALLMENT PAYMENT SCHEDULE:** Upon execution of contract only one of the options shall be inserted below. See prospectus for additional information:

Buyer shall make the following payment schedule:

Option 1 and 3

1) Buyer shall make a down payment toward the final purchase price of \$30,000 at the time this agreement is signed. This sum shall be retained as a payment deposit. The payment deposit shall be credited to Buyer against the final log stumpage payments made under this agreement.

Option 2

1) Buyer shall make a down payment toward the final purchase price of \$30,000 at the time this agreement is signed. This sum shall be retained as a payment deposit. The payment deposit shall be credited to Buyer against the final log stumpage payments made under this agreement.

2) A total of \$250,000 in payments will need to be paid by July 15, 2014. If the stumpage payments plus down payment does not equal or exceed \$250,000 by June 30, 2014, Buyer shall make an additional advance payment, to total \$250,000 in stumpage and down payment. This additional payment will be deducted from the subsequent payments that follow.

D. **STUMPAGE PAYMENTS:** Buyer shall make twice-monthly payments to Seller for all merchantable timber removed by Buyer on the tenth and twenty-fifth day of each month this Agreement is in effect, or on such other two days as are mutually agreeable by the parties.

3) **ACCOUNTING:** Buyer shall provide Seller's Representative with the following documentation during all times this contract is in effect:

A. **LOG LOAD RECEIPTS:** Buyer shall require all truck drivers of each load of logs removed from the timber sale area to complete all log load receipts in triplicate on forms furnished or approved by Seller's Representative prior to the removal of the loads from the timber sale area. Buyer shall designate a person who is competent and continuously employed at the place of log loading to properly supervise and issue log-loading receipts. One copy of the log receipt shall be retained by the truck driver, who shall keep it in his possession at all times the load is in transit. The truck driver shall surrender this receipt to the log dump operator or log scaler and insure that the receipt is retained by the log scaler to accompany the log scale ticket prepared for such load. One copy of all receipts shall be retained at the log loading landing on the timber sale area and shall be made available for inspection by Seller's Representative at all times. The third copy shall be distributed as agreed between Seller's Representative and Buyer.

- B. **LOG SCALING:** All merchantable logs from merchantable timber sold under this Agreement shall be scaled in accordance with the following provisions:
- a) **SCALING:** Scaling shall be performed by roll out scale at Seller's discretion in accordance with the Official Scaling Rules of the scaling bureau performing the scaling. Buyer shall furnish Seller's Representative with a certified copy of all scale tickets, summary sheets, tallies or certificates, no less frequently than once a week. Buyer shall insure that the scaling method used produces a current and accurate accounting of all log volumes removed from the timber sale area.
 - b) **RESCALE:** Either Buyer or Seller may request a rescale to determine the accuracy of the original scale. Any request for rescale and performance of a rescale shall be performed in accordance with the Official Log Scaling Rules. Adjustments to scaling volume resulting from rescale shall be adjusted as provided by the stumpage rates stated in paragraph 2 B) of this Agreement.
 - c) **CHECK SCALE:** Seller, at its sole option, may check scale any or all of the merchantable logs removed. Seller agrees not to unreasonably delay transportation vehicles for the purpose of check scaling. All check scaling expenses shall be paid by Seller.
 - d) **LOG REMOVAL PENALTY SCALE:** Buyer shall remove all merchantable logs from the timber sale area. Buyer shall be required to pay Seller for any loss of merchantable timber on the timber sale area due to any of the following actions or events:
 - a. Improper felling or bucking;
 - b. Failure to remove logs prior to the deterioration of the logs;
 - c. Merchantable logs remaining on the timber sale area after the completion of logging;
 - d. Loss of timber as a result of fire, windstorm or other casualty.
 - e. The volume of any such loss shall be determined by scaling or other appropriate means and shall be paid for at the stumpage price provided in Paragraph 2 if the damage is judged accidental by the seller or at treble price as provided in Paragraph 2 if the Seller judges the damage wasteful or malicious.
- 4) **BID DEPOSIT.** The \$10,000 bid deposit shall be held by the Seller until Buyer has, to the satisfaction of the Seller, complied with state laws and regulations relating to this sale, including payment of the Oregon Forest Products Harvest Taxes and procurement of a slash release, and, likewise to the satisfaction of Seller, complied with all provisions of this contract. Upon such compliance, the bid deposit shall be promptly refunded to Buyer. If Buyer defaults in its prompt compliance with any laws, regulations or provisions of this contract, Seller may, without prejudice to other remedies, perform the same and charge the expenses incurred in such performance to Buyer. Thereupon Seller shall apply the bid deposit toward expenses so incurred and return the balance, if any, to Buyer. If the bid deposit is insufficient to pay and fully discharge all expenses incurred by Seller, then Buyer shall immediately pay the unpaid balance to Seller.
- 5) **BONDS.** Upon signing the contract, Buyer shall furnish Seller a separate performance bond in the amount of the Buyer's bid minus the down payment or **\$400,000**, whichever is more,

countersigned by a commercial bonding company satisfactory to the Seller, guaranteeing the full and complete performance of all payments, terms, conditions and obligations required of Buyer under the provisions of this contract. If Buyer breaches any of the payment terms of this contract, the performance bond shall be forfeited to the Seller; provided, that if Seller's damages exceed the amount of the bond, Buyer shall pay any such excess over and above the amount of the bond. Seller shall be entitled to all remedies available under this contract or Oregon law for recovery of such additional damages.

6) TIME FOR PERFORMANCE. Upon execution of contract only one of the options shall be inserted below. See prospectus for additional information:

Option 1:

Buyer agrees to fully perform this contract by April 29, 2015. Slash disposal and burning may be extended to December 15th, 2015 to accommodate proper site preparation. On December 31, 2015, all rights of Buyer under this contract, including the right to any remaining merchantable timber on the sale area, the right to remove any remaining timber or logs determined by Seller to be merchantable, or to remove any personal property of Buyer from sale area, shall terminate unless extended in writing by Seller.

Option 2 and 3:

Buyer agrees to fully perform this contract by April 29, 2016. Slash disposal and burning may be extended to December 15th, 2015 to accommodate proper site preparation. On December 31, 2016, all rights of Buyer under this contract, including the right to any remaining merchantable timber on the sale area, the right to remove any remaining timber or logs determined by Seller to be merchantable, or to remove any personal property of Buyer from sale area, shall terminate unless extended in writing by Seller.

If, during the term of this agreement, Buyer is prevented from cutting merchantable timber or removing merchantable logs because of strikes, governmental orders, floods, inclement weather conditions, fires, the origin or spread of which is not contributed to by any act or omission of Buyer, acts of God or the public enemy, or other causes beyond the reasonable control of Buyer, and, if Buyer is unable to complete its obligations by the applicable date specified above solely because of the suspension of operations at the site by reason of the above causes, the date for completion shall be extended by a period of time not to exceed the period of time during which Buyer's operations were suspended.

- 7) LOGGING AND CUTTING.** Buyer shall conduct its logging operations in the sale area in an efficient, workmanlike manner, in accordance with good standard logging practices as the same prevail in Southwest Oregon, pursuant to the provisions of the Oregon Forest Practices Act and in accordance with the following special provisions:
- A. Buyer, at Buyer's own expense, shall perform all requirements of the Oregon Forest Practices Act and file and deliver all notices to the State Forester that may be required by the Oregon Forest Practices Act, including notices required prior to the commencement of work.

- B. Buyer, at Buyer's own expense, shall prepare a logging plan which will be submitted to and approved by Seller prior to the commencement of any activity under the contract, which approval shall not be withheld unreasonably. The plan shall include, among other things, type of logging equipment to be used, road and landing locations, methods of yarding, dates for cutting and yarding, and the names, addresses, and telephone numbers of the logging contractor and bull bucks. The plan shall conform to all terms of this contract.
- C. Buyer, at Buyer's own expense, shall arrange a prework meeting with the Seller's representative on the site to review the logging and cutting plan.
- D. The felling of merchantable trees shall be done according to industry standards for minimizing breakage and waste.
- E. Buyer shall slash all unmerchantable conifer and hardwood trees lying within the cutting unit within 30 days after completion of yarding, except for those designated as wildlife trees
- F. It is the intent of this contract that tops and limbs be yarded and piled at landings. In order to concentrate slash at landings, Buyer shall use tree-length yarding methods or leave the top and limbs attached to the top log during yarding. Upon completion of yarding, Buyer shall mechanically concentrate landing slash piles as directed by Seller. Landing piles will be burned to the Seller's satisfaction at Buyer's sole expense.
- G. Buyer shall pay all costs of labor and materials and keep the timber and all properties of Seller free from liens and encumbrances.
- H. During periods of extremely wet weather or extremely high fire danger, Seller may temporarily suspend operations, whenever, in Seller's judgment, continued operations would cause excessive damage or pose an unreasonable risk of causing excessive damage to water quality or quantity, roads, forest soils or other forestlands.
- I. Upon completion of all logging operations under this contract, Buyer shall promptly remove all equipment, refuse, wire rope, litter, scrap and trash brought upon Seller's land by Buyer, its agents, employees, or contractors. All lunch-box garbage, oil and grease containers, cans or anything of a non-biodegradable nature shall be removed from the worksite on a daily basis.
- J. Buyer agrees that satisfying the requirements of the Forest Practices Act according to the terms of this agreement is of a special and extraordinary character. Accordingly, Buyer agrees that it shall be liable for compliance with the Forest Practices Act and that such liability shall continue until released by the Forest Practices Forester.
- K. During the term of this timber sale contract, and any extension for burning, Buyer shall be required to conform to changes or amendments to state and federal statutes, or any new regulations that affect the amount of timber to be left in the units. It is the responsibility of Buyer to amend its logging plan to conform to statutory changes or new rules. All costs associated with any Forest

Practices Act changes, such as leaving additional timber or logs or changing logging methods, will be borne solely by Buyer.

- L. Buyer is responsible for any trespass outside the timber sale boundary marked on the ground by Seller. Advance written permission from landowners must be obtained prior to anchoring any line to any tree located outside the sale area boundaries.
- M. To help prevent the spread of noxious weeds, Buyer and/or its operators must wash logging equipment prior to entering the Watershed.

8) LOGGING ROAD CONSTRUCTION, USE AND MAINTENANCE. Buyer shall comply with the following terms and provisions in the construction, use and maintenance of all logging roads:

- A. Buyer shall have the right to construct such temporary roads upon Seller's land as may be necessary to log the sale areas. No road shall be constructed, and no existing road shall be used, until such construction or use has been disclosed to and approved by Seller as part of the logging plan. In constructing any road, Buyer shall abide by the standard practices of the industry and applicable state and federal agency requirements.
- B. Buyer shall bear all costs of new road construction and/or road improvements necessary for the removal of the timber. Any new road construction shall be strictly limited to the minimum construction necessary for the execution of the Buyer's logging operations.
- C. For the purposes of log hauling, equipment moving, logging crew transportation and logging administration, Seller guarantees to Buyer ingress and egress to the subject timber sale area along the designated haul route, as designated on Exhibit "A", which is attached hereto and incorporated herein by reference. Buyer shall close and lock all gates during non-operating periods and close the gate when not actively hauling logs or rock.
- D. **NO wet weather haul (October 15 to June 15) will be allowed over road segment D to E.** The Buyer shall have the right to haul around the lake to avoid this segment, but assumes the road maintenance while hauling.
- E. Buyer shall be responsible for road maintenance along the haul route during the term of this contract. Road maintenance shall include keeping culverts free of debris, grading and ditching. Buyer will also apply no less than 250 cubic yards of 1½ inch crushed rock, as directed by Seller, and grading the haul road prior to and on completion of logging.

9) PREVENTION, CONTAINMENT AND LIABILITY FOR CONTAMINANT SPILLS. Fuel trucks shall enter the watershed only when necessary and shall be parked outside the watershed when not in use. Buyer shall provide a written plan, to be approved by Seller, outlining Hazardous Material Spill Containment and Recovery Methods and Supplies (HMSCRMS). Seller shall require a Spill Prevention Control and Countermeasures Plan (SPCC) meeting EPA Standards and prepared by a registered professional engineer. The Seller reserves

the right to waive the SPCC requirement if the HMSCRMS written plan meets the Seller's approval. Seller shall approve the amount and/or location of bulk storage sites and transportation routes for petroleum products or other hazardous materials in writing. All petroleum products shall be contained in OSHA approved containers. Buyer shall take appropriate preventive measures to insure that any spill of oil, oil products, or other hazardous materials does not enter any stream or other waters of the State. In the event of such a contaminant spill, Buyer shall take all reasonable initial action to contain it. Unless otherwise agreed in writing, all contaminated soil, Buyer shall remove vegetation and debris to approved locations outside of the Pony Creek Watershed.

Buyer shall immediately notify Seller if Buyer has actual notice of any spill, release, or disposal of any hazardous material in the Pony Creek Watershed resulting from the Buyer's operations, or any complaint, citation, administrative action, order, notice of violation or similar action relating to Buyer's use, possession, disposal, spill, or release of hazardous materials at or in the Pony Creek Watershed. Buyer shall be fully liable for any and all costs of clean-up, remediation, treatment or disposal of such hazardous substances, including the costs of any fines or penalties assessed against the Seller by any governmental unit, whether the necessity of such action results from Buyer's negligence or otherwise, such liability surviving the term of this contract.

- 10) MUNICIPAL WATERSHED.** Buyer acknowledges that the Pony Creek Watershed is the source of the domestic water supply for the customers of the Coos Bay North Bend Water Board.
- A. Buyer specifically covenants that it will conform its operations to all requirements of the Coos Bay North Bend Watershed rules.
 - B. Buyer specifically covenants that it will conform its operations to all applicable public contracting laws and regulations.
 - C. Buyer agrees to suspend its operations upon request by Seller, if in Seller's judgment; Buyer's operations are damaging or are threatening to damage water supply or quality. Buyer shall suspend operations until, in the judgment of Seller, the problem has been corrected.
 - D. No overnight stays or camping by Buyer, its employees, agents, assigns or contractors, are allowed without prior written permission from the Coos Bay North Bend Water Board.
 - E. No hunting or fishing by Buyer, its employees, agents, assigns or contractors shall be allowed.
 - F. Buyer agrees to be responsible for any claim, expense, liability or claim of liability resulting from any default by Buyer in performance of its obligations under this section, while such claim, expense, liability or claim of liability arises before or after completion of Buyers operations or termination of this contract. This provision shall survive the termination of this contract.
 - G. Buyer shall defend, indemnify and hold harmless Seller from all liability from all governmental authorities, or to any public or private parties, arising out of Buyers violation of applicable law.
- 11) SANITATION.** Unless Seller authorizes substitute measures or equipment in writing, Buyer shall provide approved chemical toilets for use by all persons engaged in road construction or in logging or in removing timber. Such facilities shall be furnished by Buyer in such quantities and at such locations agreed to by Seller.

- 12) **PRESERVATION OF SURVEY MONUMENTS.** Numerous land survey monuments are located along the sale area boundary. In the event Buyer destroys or damages any land survey monument, Buyer, at its sole expense, shall have the monument replaced by a registered professional land surveyor, licensed in Oregon, and have the appropriate resurvey filed with the Coos County Surveyor. Any bearing tree cut must be at least 24 inches above the healed face or scribe marks.
- 13) **SLASH DISPOSAL.** The Buyer will be responsible for site preparation to the Seller's satisfaction. Site preparation will include gross yarding with tops attached or machine piling. Landing piles and in-unit piles will be burned to the Seller's specifications at Buyer's sole expense. It is the intent of this contract that the yarding provision in Section 7 will provide site preparation necessary for tree planting. However, if in Seller's opinion unit slash needs broadcast burning to achieve desired site preparation, Buyer shall burn unit slash entirely or partially, as directed by Seller. Prior to any such decision, the Seller shall have the method of burning reviewed by the Fire Marshal of the City of Coos Bay. **Seller shall pay Buyer for additional work resulting from broadcast burning.** Prior to the Buyer's undertaking such additional burning work, the Buyer and Seller shall mutually agree upon the amount of compensation to be paid for such work, based the standard charges for such work in the Southwest Oregon Timber Industry.

Following completion of logging, Buyer shall dispose of all accumulated logging slash (piles, accumulations, landings) either by burning or woody biomass removal. If the buyer chooses the burn option, all piles and landing slash shall be placed in stable locations away from standing timber and roads as directed by the Seller. Piles shall be tight and free from dirt. Prior to September 30, piles shall be adequately covered with plastic to ensure easy ignition during wet weather. Piles will be burned at Buyers sole expense after coordination with Coos Forest Protective Association (CFPA).

Buyer may choose to dispose of the logging slash, wholly or in part, by the 'woody biomass removal option'. **In this option the Buyer and Seller shall negotiate a lump sum price for the biofuel.** In this option landing and shovel piles shall be removed from the timber sale area either by grinding on site and hauling the grindings away or loading and hauling slash to a remote site for further processing. Note: 'slash' does not include any logs for which a price has been established under Section 2 of this contract. Woody biomass removal using ground based equipment to process or haul slash will be permitted only during dry periods from May 15 to October 15 and are limited to slopes less than 30 percent. Accumulations will be removed at Buyers sole expense after coordination and verification with the City of Coos Bay that the piles contain no merchantable timber for which payment should be made. Buyer will be liable for excessive road wear caused by off-highway equipment used to remove the slash. The grinding site must be pre-approved by the City and Coos Bay North Bend Water Board. In any case, Buyer will be required to leave roads in a condition equal to or better than existed prior to the sale of the subject timber.

- 14) **REFORESTATION.** Seller shall be responsible for reforestation work, costs and compliance with State reforestation requirements.

- 15) **FIRE PRECAUTIONS AND SUPPRESSION.** During the time this contract remains in effect, Buyer shall independently make every reasonable effort to prevent and suppress forest fires in the sale area and its vicinity, and shall require its agents, employees, contractors, and agents and employees of contractors to do likewise. Buyer shall place its equipment, employees, contractors, and employees of contractors at the disposal of any authorized forest officer for the purpose of fighting forest fires in or near the sale area.

Buyer shall be responsible for any claim, expense, liability or claim of liability resulting from any default by Buyer in performance of its obligations under this Section, regardless of whether such claim, expense, liability or claim of liability arises before, during or after completion of Buyer's operations or termination of its duties under this contract.

Buyer shall defend, indemnify and hold harmless Seller from all liability to governmental authorities and to public or private parties arising out of or resulting from the acts or omissions or violations of the law by Buyer, its agents, employees, assigns, contractors or subcontractors causing or contributing to fires within or without the sale area.

- 16) **TITLE TO TIMBER AND RISK OF LOSS.** Seller covenants and warrants that it has good title to the subject standing timber located in the sale area described in "Exhibit A." Title to the subject timber shall pass to Buyer after full payment of the purchase price according to Section 2 of this contract. However, Buyer assumes all risk of loss to the subject timber at time of execution of this contract, and has an insurable interest in the timber. Seller retains a security interest in the timber until Buyer has fully paid the purchase price. Any proceeds of insurance on the subject timber shall be subject to Seller's security interest. Buyer shall pay any proceeds on destroyed timber within 30 days after payment of insurance proceeds.

- 17) **ASSUMPTION OF RISKS AND INDEMNITY.**

Seller has made no representations as to the present or future conditions of its property or the character of the traffic on any roads. Buyer assumes all risk of personal injury or property damage to itself and its employees, agents and contractors in connection with operations under this Contract.

- A. Buyer shall pay for all damage to Seller's property resulting directly or indirectly from Buyer's negligent acts or omissions. Buyer shall reimburse Seller for all costs reasonably incurred in fighting fire resulting directly or indirectly from Buyer's acts or omissions even if Buyer was not negligent.
- B. Buyer shall defend, indemnify and save harmless Seller against any and all loss, expenses, damages, claims, fines, charges, liens, liabilities, actions, causes of action or proceedings of any kind whatsoever (whether or not arising on account of damage to or loss of property, or injury to or death of person) arising directly or indirectly out of or in connection with the performance by Buyer of any of its obligations, operations or activities under this contract, including, but is not limited to, any claims for injury to persons or property, timber trespass, nuisance, mechanics' and materialmens' liens, workers' compensation and unemployment taxes, fines and penalties, and environmental damage. Buyer shall perform all its obligations and carry on all its operations and activities hereunder as an independent contractor and entirely at its own risk and responsibility.

Buyer shall be responsible for activities of its subcontractors. If Seller so elects, Buyer will reimburse Seller for all costs reasonably incurred to defend against such claims through the attorneys of Seller's choice.

- C. Neither Seller nor its agents or representatives have made any representations regarding the volume or quality of timber, nor the costs or feasibility of logging it, and Buyer has relied upon his own estimates of said volume, quality, costs and feasibility. Buyer assumes all risk of loss of the subject timber as outlined in Section 16 of this Contract.

18) INSURANCE. The Buyer shall comply with the insurance provisions below. Buyer hereby agrees to defend, indemnify, and save harmless the Seller and its employees against any and all loss, damage, liability, claims, demands, or costs resulting from injury or harm to persons or property (including, without limitation, Buyer's employees or property) to the extent arising out of or in any way connected with Buyer's negligent performance hereof. Buyer's activities shall be deemed to include those of subcontractors.

- A. Buyer shall not commence work under this contract until they have furnished the Seller with satisfactory proof of the coverage of insurance as specified below:
1. Workers compensation coverage is required by law with a Waiver of Subrogation in favor of the Seller;
 2. Employers liability with limits of not less than \$500,000 per occurrence;
 3. General liability coverage for damages as a result of death or bodily injury (including personal injury) to any persons or destruction or damage to any property with limits of not less than \$2 million each occurrence. Such coverages shall include, but not be limited to:
 - a. Commercial general liability coverage
 - b. Products liability including completed operations
 - c. Premises operations including X, C, U as applicable
 - d. Broad form property damage
 - e. Personal injury
 - f. Additional insured endorsement, being primary and non-contributory
 - g. Waiver of transfer of rights of recovery against others to the Seller
 - h. Loggers Broad Form property damage liability including fire fighter expense
 4. Automobile liability insurance as a result of death or bodily injury to any persons or destruction of or damage to any property arising out of the ownership, maintenance, or use of any motor vehicle with limits of not less than \$1 million per occurrence.
- B. The following inclusions to Buyer's certificate of insurance shall be made:
1. The above liability coverages under A.3 shall name the Seller and Stuntzner Engineering & Forestry, LLC as an additional insured and shall contain a severability of interest provision in favor of the Coos Bay – North Bend Water Board and the City of Coos Bay.
 2. **REQUIRED ENDORSEMENTS SHALL BE ATTACHED TO CERTIFICATE OF INSURANCE AS EXHIBIT G.**

- 19) **EXAMINATION OF LOCATIONS AND CONDITIONS.** Buyer specifically warrants that it has made a careful and independent examination and analysis of the contents of this contract, its requirements and specifications; that Buyer has made a full and independent examination and in-depth evaluation of the quantity and quality of timber in the sale area and has submitted its bid on the basis of its independent examination and in-depth evaluation; that Buyer has made a careful and independent examination of the timber sale area, the character and conditions under which the work will be performed and nature of the work to be required; and that Buyer has not relied upon Seller's or Stuntzner Engineering & Forestry's estimates or representations regarding any matter contained in this contract. Buyer specifically covenants that neither Seller nor Stuntzner Engineering & Forestry, LLC shall have any liability for any loss suffered or cost incurred by Buyer as a result of Buyer's failure to become independently informed regarding any matter contained in this contract.
- 20) **PERMITS.** Buyer shall, at its sole expense, procure all permits and licenses, pay all charges and other fees and give all notices necessary and incident to the due and lawful prosecution of the work under this contract.
- 21) **TIME IS OF THE ESSENCE AND WAIVER.** Time and strict performance are the essence of this contract, and no waiver by Seller of any breach of any provision of this contract by Buyer shall be construed to operate as a waiver of any subsequent breach by Buyer of any provision, nor shall a wavier of any provision constitute a continuing waiver such provision. The remedies set forth herein are not exclusive, and are cumulative with any other remedies available to the parties, in law or at equity.
- 22) **ASSIGNMENT OF CONTRACT.** No assignment of this contract will be valid, without prior written consent of Seller, which shall not be unreasonably withheld. In the event Buyer assigns any of its rights hereunder to any other person, firm or corporation, Buyer shall not be released from liability for performance of any term or provision of this contract, notwithstanding any such assignment.
- 23) **AUTHORIZED REPRESENTATIVE.** Seller designates Stuntzner Engineering & Forestry, LLC as Seller's authorized field representative, which shall be authorized to inspect the progress of work and issue instructions regarding performance of the terms of this contract.
- 24) **INSPECTION.** The Seller and its authorized field representative shall at all times be allowed access to all parts of Buyer's logging operations and work locations, and shall be furnished such information or assistance by Buyer, or by Buyer's the designated representative(s), as may be required to make a complete/detailed inspection.
- 25) **DISCHARGE OF LIENS AND CLAIMS.** Buyer agrees to protect and to discharge promptly Seller, Seller's property and all timber and other forest products taken there from any and all liens, claims, and liabilities whatsoever based upon, arising out of, or resulting from Buyer's logging operations, including, but not limited to mechanic's, laborer's, and materialmens liens,

and from any claims for loss, damage or personal injuries of Buyer's employees or others, and from any claims for trespass upon any other property and any claims for violation of laws relating to workers' compensation, unemployment compensation, and the like.

- 26) **WESTERN OREGON SEVERANCE AND FOREST PRODUCTS HARVEST TAXES.** The subject timber is exempt from the Western Oregon Severance Tax and the Buyer has no obligation thereto. The timber is subject to the Oregon State Forest Products Harvest Tax, which shall be paid by the Buyer. Buyer shall provide Seller proof of payment of this tax before the deposit and Bond will be released.
- 27) **EXPORT OF TIMBER PROHIBITED.** Because the Forest Resources Conservation and Shortage Relief Act of 1990, ORS 526.805 and Sellers' policy prohibit the export of unprocessed timber from public lands in Oregon, the timber from this sale may not be exported.
- 28) **DEFAULT.** Any one of the following shall constitute default by Buyer:
- A. Failure by Buyer to make any payment when due and payable.
 - B. Failure by Buyer to keep and perform any other agreement, covenant or condition of this contract, if such failure continues for a period of ten (10) days after written notice has been provided by Seller or Seller's authorized field representative to Buyer, provided that Seller shall have the right to immediately terminate all Buyer's logging activities upon lapse of insurance coverage as set forth in Section 18 of this contract.
 - C. Insolvency of Buyer, whether actual insolvency or insolvency resulting in the filing of a petition for bankruptcy; Buyer's making an assignment for the benefit of creditors; the appointment of a receiver of any kind whatsoever under state or federal law by or against Buyer or against any property of Buyer or against any interest of Buyer in timber rights, property or equipment used in connection with any logging operations or log harvesting, unless terminated within fifteen (15) days;
 - D. The assignment of this contract or any interest therein without the consent of Seller, either by act of Buyer or by operation of law, including any assignment by a receiver of Buyer.

In event of default, Seller shall have, in addition to any other remedy available at law or in equity or under any other provision of this contract, the right to suspend immediately Buyer's operations until such default is cured and the right to immediately terminate this contract by notice in writing to Buyer and take immediate possession of all lands on which logging operations have been performed and all logs and downed timber, and to remove Buyer, its contractors, agents, employees, subcontractors, and representatives, and its equipment from Seller's lands.

29) NOTICES. Any notice required or permitted under this contract shall be given in writing by mail or hand delivered, and addressed as follows:

To Seller:

City of Coos Bay
Jennifer Wirsing
500 Central Avenue
Coos Bay, OR 97420

To Buyer:

Copy To:

Stuntzner Engineering & Forestry, LLC
P.O. Box 118
705 South 4th Street
Coos Bay, Oregon 97420
541-267-2872 FAX 267-0588

30) ARBITRATION – ATTORNEY FEES. In the event any action, suit, arbitration, or other proceeding shall be instituted by either party to this contract to enforce any provision of this contract or any matter arising there from or to interpret any provision of this contract, the prevailing party shall be entitled to recover from the other a reasonable attorney fee to be determined by the court or arbitrator(s). In addition to recovery of a reasonable attorney fee, the prevailing party shall be entitled to recover from the other costs and disbursements, including all costs of arbitration and the arbitrator(s) fees, and expert witness fees, as fixed by the court or tribunal in which the case is heard. In the event any such action, suit, arbitration, or other proceeding is appealed to any higher court or courts, the prevailing party shall recover from the other a reasonable attorney fee for prosecuting or defending such appeal or appeals, in addition to the reasonable attorney fees in the lower court or courts or arbitration proceeding, such fee to be determined by the appellate court or lower court or arbitrator, as the appellate court may determine. In addition to recovery of a reasonable attorney fee on appeal, the prevailing party shall be entitled to recover from the other costs and disbursements and expert witness fees as fixed by the appellate court. All costs and disbursements, which may be awarded pursuant to this paragraph, shall bear interest at the maximum legal rate from the date they are incurred until the date they are paid by the losing party.

Any controversy or claim arising out of or relating to this contract, including without limitation the making, performance, or interpretation of this contract or the contract documents, shall be settled by arbitration. If Seller or Buyer disagrees whether Seller or Buyer is legally entitled to recover damages under this contract or the contract documents, then either Seller or Buyer may make a written demand for arbitration. The parties agree to submit their controversy to binding arbitration before a single arbitrator. The arbitrator shall be an attorney licensed to practice law in the State of Oregon. If the parties cannot agree within thirty (30) days to the selection of a single arbitrator after the election to arbitrate, either party may request that a judge of a Circuit or District Court of Coos County, Oregon make the selection of any arbitrator. Seller and Buyer will pay their own costs of arbitration, and, unless the arbitrator awards costs to the prevailing party, each is obligated to pay one half of the arbitrator's fee.

Unless otherwise agreed, the arbitration shall be conducted in Coos County, Oregon. If arbitration is commenced, the parties agree to permit discovery proceedings of the type provided for by the Oregon Rules of Civil Procedure both in advance of and during recess of the arbitration proceedings. If arbitration is commenced, this contract shall be governed by and construed in accordance with the laws of the State of Oregon. The parties agree that the arbitrator shall have no jurisdiction to render an award or judgment for punitive damages. The parties agree that the decision of the arbitrator shall be final and binding on the parties and a judgment may be entered on the arbitrator's award. The parties agree that all facts and other information relating to any arbitration arising under this contract shall be kept confidential to the fullest extent permitted by law. Unless otherwise inconsistent herewith, the provisions of ORS Chapter 36 shall apply to any arbitration hereunder. In the event of arbitration under the provisions of this agreement, the prevailing party shall be awarded reasonable attorney fees and related costs, disbursements, and expert witness fees as provided for in this contract.

- 31) **ENVIRONMENTAL RESTRICTIONS.** If Buyer is prevented from obtaining any necessary private, federal, state or local permits necessary to harvest and remove all the merchantable timber from the land described on "Exhibit B," or if harvest of all such merchantable timber is prevented by federal, state or local laws or regulations, including but not limited to, rules or regulations imposed under the Endangered Species Act, the merchantable timber so affected shall no longer be covered by this contract, and Seller shall return all payments made by the Buyer, less the Seller's costs for sale layout, cruising, marketing and preparation. However, if only a portion of the timber is prevented from being harvested because of any of the conditions listed above, all terms and conditions, including the purchase price as agreed to in Section 2, shall be binding as to this partial harvest. The Buyer shall remove remaining merchantable timber, regardless of changes in logging conditions and timber quality that might result from the partial withdrawal of merchantable timber from the sale area.
- 32) **ENTIRE AGREEMENT.** This contract, the timber sale notice and prospectus and the attached exhibits set forth the entire understanding of the parties with respect to the subject matter of this contract and supersede all existing agreements, whether oral or written, between the parties with respect to such subject matter. No supplement, modification or amendment of this agreement shall be binding unless executed in writing by all the parties.

- 33) **GENDER.** Any indication of gender in this agreement shall be modified, as required, to fit the gender of the party or parties in question.

IN WITNESS WHEREOF, the parties have caused this contract to be executed, on the day and year first above written.

SELLERS:

Rodger Craddock, City of Coos Bay City Manager

BUYER:

STATE OF OREGON)

) Ss

County of Coos)

This instrument was acknowledged before me on April ___, 2014, by Rodger Craddock, City of Coos Bay City Manager, duly authorized agent for Seller.

NOTARY PUBLIC FOR OREGON

My Commission Expires: _____

STATE OF OREGON)

) Ss

County of _____)

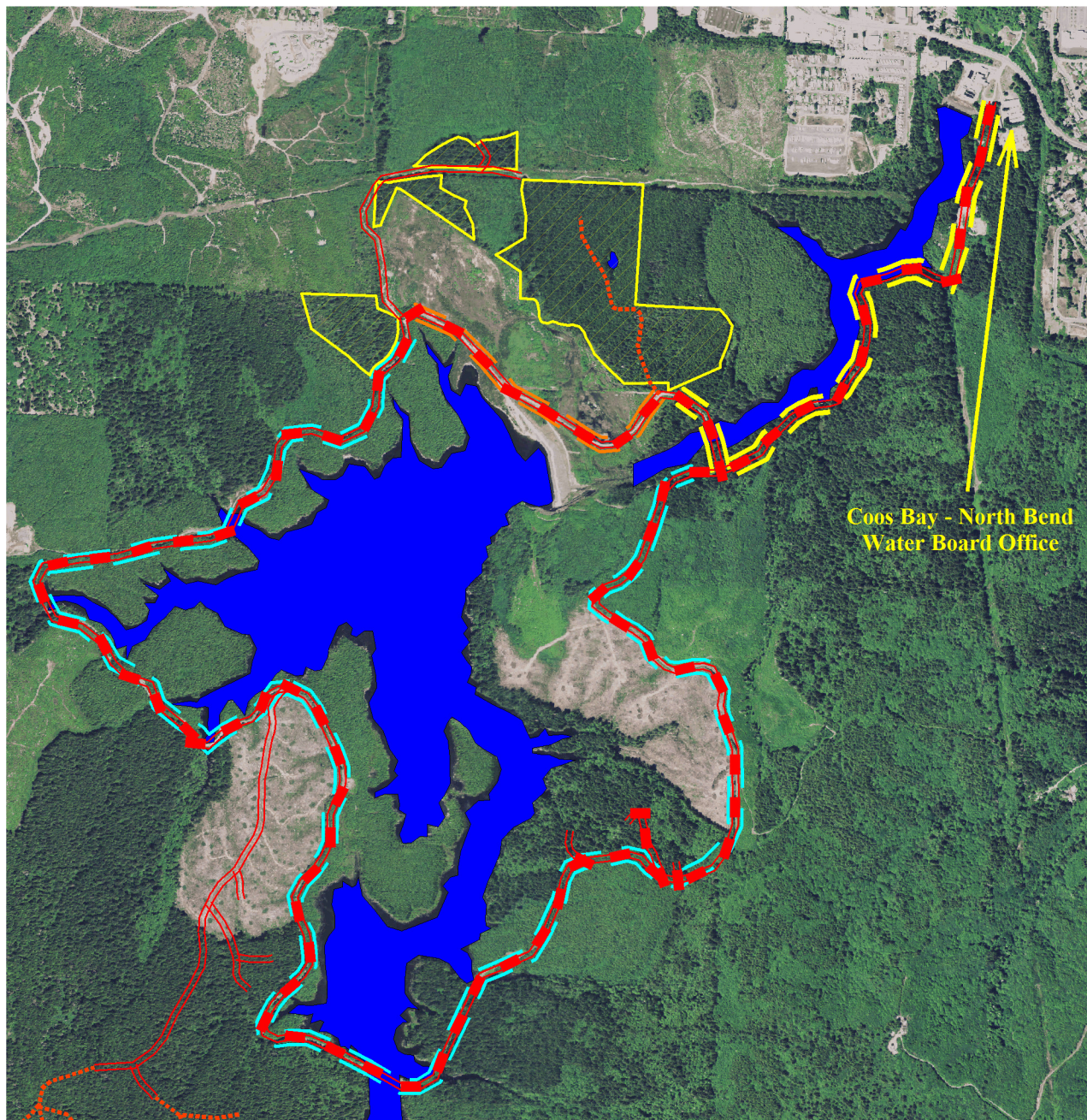
This instrument was acknowledged before me on April ___, 2014, by _____, duly authorized agent for Buyer.

NOTARY PUBLIC FOR OREGON

My Commission Expires: _____

EXHIBIT "A"

Vicinity Map and Designated Haul Route Map City of Coos Bay 2014 Timber Sale



Roads(by Type)

- 'Existing Dirt'
- 'New'
- 'Rocked'

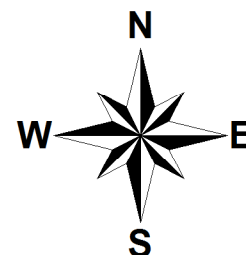
2014 Timber Sale

Designated Haul Route(by season)

- 'Winter'
- 'Summer Only'
- 'Summer/Winter'

Water

2012 NAIP



Scale = 1 : 1600.00 (In : Feet)

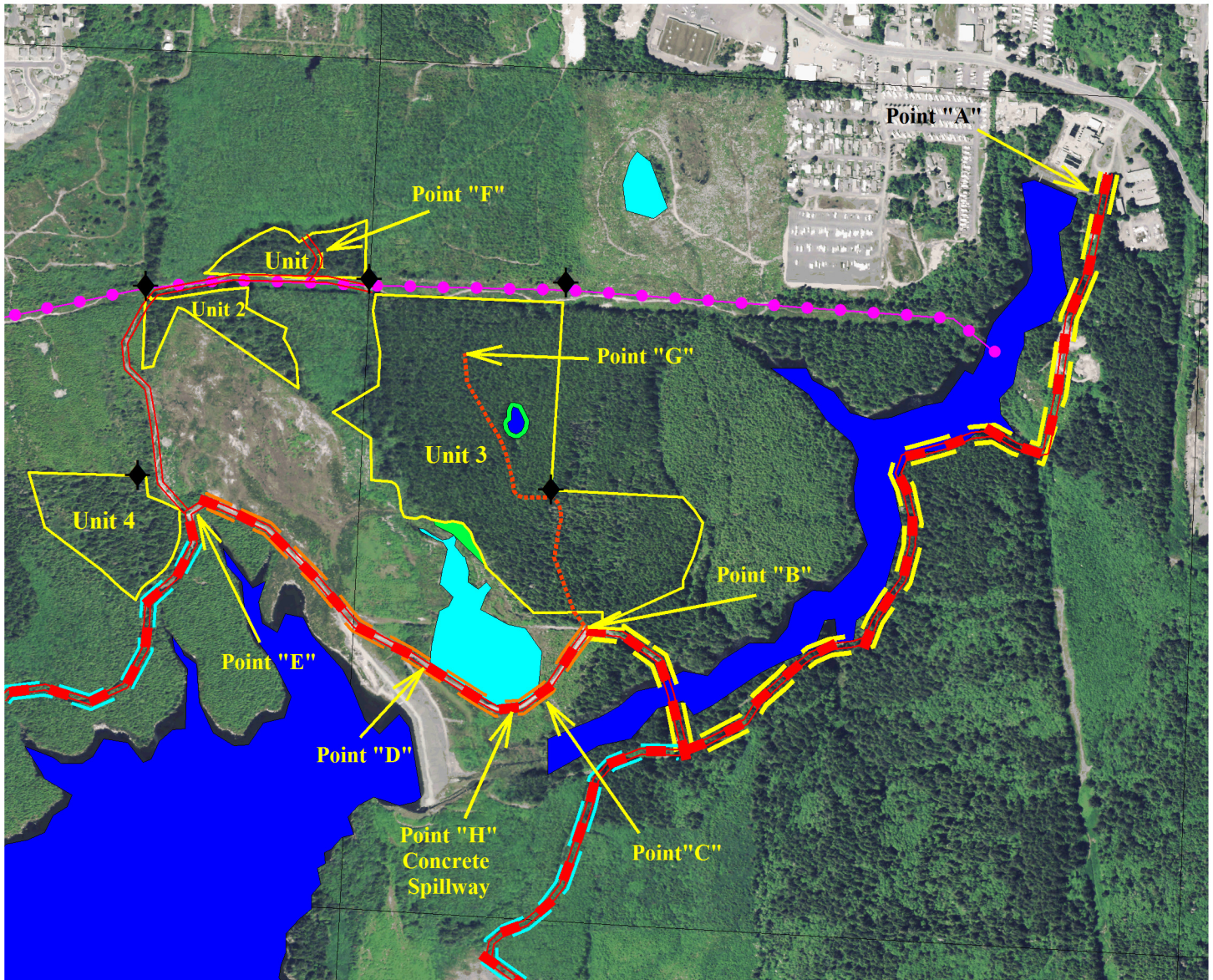
1600 0 1600 3200 Feet

01-22-2014

EXHIBIT "B"

City of Boos Bay 2014 Timber Sale

Portions of Sections 28 and 29,
T.25S., R.13W., W.M.,
Coos County, Oregon



◆ Survey Corners

Roads (by Type)

— 'Existing Dirt'

--- 'New'

— 'Rocked'

◆ Power Lines

□ 2014 Timber Sale

Designated Haul Route (by season)

— 'Winter'

— 'Summer Only'

— 'Summer/Winter'

■ Water

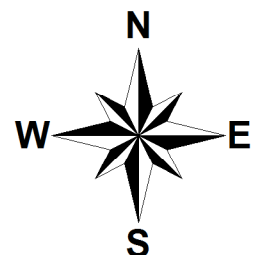
■ Wetland Buffer

□ plss_no_dlc

■ Wetland

■ 2012 NAIP

Unit	Acres
1	5.5
2	5.7
3	54.6
4	10.5
Total	76.3



Scale = 1 : 1000.00 (In : Feet)



01-22-2014

EXHIBIT “C” Project Work

Project #1 – New road construction

Construct approximately 22 stations (project points B to G) of new unsurfaced road as shown on Exhibit “B” and marked on the ground with “Orange” flagging, per road specifications.

Project #2 – Road Reconstruction

Reconstruct approximately 27 stations (project points E to F) of new unsurfaced road as shown on Exhibit “B.”

Project #3 – Road resurfacing

Spread 250 cubic yards of 0”-1.5” crushed quarry as directed at the completion of log haul.

Project #4 – Road resurfacing

Spread 80 cubic yards of 0”-1.5” crushed quarry on road segment C to D and 20 cubic yards of 0”-1.5” crushed quarry over the concrete spillway at Point “H” prior to log haul or equipment moving over that segment. The gravel in the spillway needs to be removed prior to October 15th yearly and spread on the road on each end of the spillway.

EXHIBIT “C”
Road Construction Specifications and Project Details

Clearing and Grubbing

1. Debris as used in this section will be defined as that material consisting of brush, limbs, stumps or other loose vegetative material resulting from logging the right of way.
2. Clearing shall consist of removing all brush and other debris five feet back from the top of the cut bank to toe of fill slope.
3. Grubbing is the removal of stumps, roots and other woody material embedded within the road prism.
4. No loose debris, stumps and/or roots are to remain under any fill.
5. No clearing or grubbing debris is to be left lodged against merchantable trees or to remain in any streams.
6. Cutting of snags and danger trees outside the right of way boundaries shall be as required by the Oregon State Compensation Board, Accident Prevention and Safety Department.
7. Slash, chunks, stumps and other clearing debris shall not be disposed of within any critical slide area (example, headwalls).

Construction

1. The road shall be constructed as detailed below. Deviation from the plan may be made upon approval by SEF, if such a change would improve the road or reduce construction costs.
2. Unless otherwise specified, the roads shall be 14 feet of subgrade width, plus two feet for ditch. All curves shall be constructed with curve widening to an appropriate width to allow for passage by log trucks, chip trucks and lowboys. The minimum radius curve shall be 50 feet, unless otherwise specified. Fill slopes will have a maximum slope of 1 1/2 : 1. Cut banks will have a maximum slope of 1/2 : 1.
3. Excess excavation shall be side cast except as specified below:
 - a. Where material will enter a stream course.
 - b. Where material will accumulate in areas with slide potential as determined by SEF or the Oregon Department of Forestry.
4. The road is to be full bench construction on side slopes that exceed 55%. On steep side slopes exceeding 55%, all of the excavated material shall be drifted or end hauled to a stable location along ridge tops or flatter side slopes, unless otherwise specified. All excavation following the pioneer road will be placed in a stable waste area as authorized by SEF.
5. Any sharp vertical curves in the roadbed shall be reduced by excavating necessary material to create a uniform grade profile between major changes in grade.

Drainage

1. All culverts shall be of the types, sizes, gauges and dimensions shown in the project details and installed in accordance with these specifications. The cross drain lengths and locations of culverts mentioned on the road projects are approximate and will be determined by SEF following completion of the subgrade.

2. A minimum cover of one foot, but not less than one-half of the diameter or span of the pipe, shall be placed on top of the pipe unless otherwise specified.
3. Pipes shall be bedded in suitable foundation material of uniform density throughout the length of the culvert. Where ledge rock, boulders, or soft/spongy soils are encountered, they shall be excavated eight inches below the invert grade for a width of at least one pipe diameter, or span, on each side of the pipe and shall be replaced by gravel or other suitable selected bedding material.
4. Backfill shall be uniform, select material placed under the haunches and alongside the pipe in layers not exceeding six inches in depth and compacted thoroughly on each side of the pipe for the full length of the culvert. The pipe shall be completely supported by compacted backfill material on each side at least one external diameter or span on the pipe, except insofar as undisturbed material obtrudes upon this area. This method of backfilling and compaction shall be continued until the material has reached an elevation of one foot above the top of the pipe.
5. Select material shall be readily compatible material free of lumps, clay or organic debris or rock greater than 3 inches in largest dimension. Pipe ruptured, broken or distorted more than five percent of nominal dimensions shall be replaced by the Buyer.
6. The outflow end of pipes shall be located so that water will fall upon solid, stable soil and not upon road embankments. Half-round culverts shall be used to control erosion where it is not feasible to direct the culvert outlet onto stable ground.
7. Rip-rap shall be placed around culvert ends to prevent soil erosion.
8. All culvert installation shall be approved by SEF prior to the completion of installation.
9. During construction, incomplete roads shall be drained by out-sloping, water bars, or dispersion ditches where necessary to minimize stream siltation. Natural stream flows shall be maintained, so as not to be hazardous to any section of the road.

Grading

1. Grading shall consist of blading the subgrade, ditches and turnouts to remove surface irregularities and provide a crowned roadbed with six inches of crown at the centerline.
2. Rocks larger than six inches at the maximum dimension shall be removed from the finished subgrade.
3. Rock protruding above the finished subgrade more than one half the depth of the intended surfacing shall be removed.
4. Any berm left during the construction of the subgrade shall be removed during grading unless authorized by SEF, in order to prevent excessive erosion of the fill slope.

EXHIBIT “D”
GENERAL WATERSHED PROTECTION RULES
February 3, 2010

by: Rob K. Schab, General Manager

The following are general watershed protection rules that apply to loggers, contractors, and others performing work within the Pony Creek/Joe Ney Watershed. These rules are in addition to the Oregon Forest Practices Act and all other state and federal rules governing forestry operations.

1. All necessary precautions shall be taken to prevent damage to the soil, stream banks, stream courses, and reservoirs.
2. The contractor shall protect stream banks and streamside vegetation from damage and shall not fall or yard timber across streams.
3. Fuel and oil trucks shall be used within the watershed only when necessary. Such trucks shall be parked outside the watershed overnight.
4. The contractor shall avoid servicing and repair of equipment with fuel and oil near streams or reservoirs.
5. The contractor shall provide a chemical toilet at the work site to be used by all personnel.
6. The contractor shall construct, periodically inspect, and maintain cross drainage ditches or water bars on all secondary roads and trails.
7. The contractor shall prevent muddy water from any work site or road from draining into a stream or reservoir.
8. The contractor shall temporarily furnish his own lock on the main gate entry. All access shall be only through the main gate.
9. The contractor shall acquaint himself with the limits of the property and not trespass on other property.
10. The contractor shall thoroughly wash all logging equipment prior to entering the watershed, especially the tires, wheels, and undercarriage.

Exhibit “E”

Project Schedule and Logging Plan

(The Buyer shall provide a Project Schedule, which will be a part of this Contract)

Exhibit “F”

List of Subcontractors

(The Buyer shall provide a list of sub-contractors, which will be a part of this Contract)

Exhibit “G”

Certificate of Insurance(s) & Endorsements

(The Buyer shall provide Certificate of Insurance(s) & Endorsements, which will be a part of this Contract)

Exhibit “H”

Performance and Payment Bond

(The Buyer shall provide a Performance and Payment Bond, which will be a part of this Contract)