

**MEMORANDUM OF AGREEMENT  
REGARDING THE PROPOSED  
CAPE MEARES LOOP ROAD PROPERTY EXCHANGE**

This Memorandum of Agreement, hereinafter **AGREEMENT**, is made and entered into by and between the Stimson Lumber Company, hereinafter **STIMSON** and Tillamook County, by and through its Board of Commissioners, hereinafter **COUNTY**. **STIMSON** and **COUNTY** collectively referred to as **PARTIES** or individually as a **PARTY**.

**RECITALS**

- A. The purpose of this **AGREEMENT** is to define **PARTIES**' responsibilities regarding the exploration of a potential real property exchange (hereinafter, the **EXCHANGE**) to facilitate the construction of the new Cape Meares Loop Road, hereinafter **ROAD**, and to mitigate impacts to **STIMSON**'s land resources by such construction.
- B. **STIMSON** owns the real property also known as Cape Meares 160 and including the right-of-way of Old Cape Meares Road pursuant to that certain deed recorded in the Official Records of Tillamook County at Book 167, Page 226-228, all as described in Exhibit A.
- C. **COUNTY** owns the real property described in Exhibit B, also known as:
- Fairview 80;
  - Hobson 40;
  - Schiffman 29; and
  - Wolf Creek 79.
- D. **PARTIES** are currently considering the properties in Exhibits A and B for the **EXCHANGE**. However, additional information is needed before any agreement may be finalized. The **EXCHANGE** may include additional properties not described in this **AGREEMENT**.

**AGREEMENT**

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants, promises and undertakings hereinafter set forth, **PARTIES** agree as follows:

1. **COUNTY** shall, at **COUNTY**'s sole expense, conduct a full land and timber appraisal in accordance with this **AGREEMENT** (hereinafter, the **APPRAISAL**) for the properties described in Exhibits A and B for the purpose of the **EXCHANGE**. **COUNTY** shall promptly repair any damage to **STIMSON**'s property as a result of such **APPRAISAL** in a good and workmanlike manner in compliance with applicable law and shall indemnify, defend, and hold **STIMSON** harmless from any liability resulting from any act of **COUNTY** or the **APPRAISER** (defined below) and their respective agents, employees and representatives in connection with such **APPRAISAL**.
2. In addition to other related responsibilities, the **COUNTY** shall:
  - a. Hire Atterbury Consultants Inc. hereinafter, the **APPRAISER**) pursuant to the quote of \$49,000 previously provided to the **PARTIES** within one month of signing of this **AGREEMENT**.

- b. Initiate the APPRAISAL within six months of signing of this AGREEMENT. APPRAISAL completion is dependent upon APPRAISER availability, but shall be completed as promptly as possible after initiation. The APPRAISAL shall exclude all prior timber cruise data, but shall include the following considerations:
- Log pricing: All log pricing will be domestic only, no export pricing.
  - Easements: Costs associated with securing permanent ingress/egress access for timber management purposes. Including road maintenance and cost share of easement maintenance.
  - Roads: New road construction and reconstruction costs. All roads will be appraised as rocked to all season hauling standards with ditches and culverts.
  - Logging plans: A logistically sound logging plan must be created, all costs must be considered for additional roading, access, tail holds, etc.
  - Harvesting costs: Logging and hauling costs need to be realistic. Bids may be acquired from contractors if needed for cost verification. Pulp and more specifically oversize pulp will be considered in the harvesting costs.
  - Stream Buffers: Full width no-cut fish buffers according to the Oregon Forest Practices Act, and other requirements of the Oregon Forest Practices Act, must be used when appraising.
3. This AGREEMENT provides no obligation that the EXCHANGE will occur. Both PARTIES retain the sole discretion to determine whether they wish to proceed with the EXCHANGE. For the avoidance of doubt, this AGREEMENT does not prohibit either PARTY from entering into any agreement with any party to sell some or all of the property that is the subject of this AGREEMENT. Either PARTY may determine not to proceed with the EXCHANGE at any time and for any reason. Furthermore, both PARTIES agree to hold the other PARTY harmless for any decision made regarding whether to proceed with the EXCHANGE.
4. TERMINATION. This AGREEMENT shall terminate:
- 4.1 When one PARTY provides 180 days' advance notice to the other PARTY that they have decided not to proceed with the EXCHANGE;
  - 4.2 When one PARTY enters into an agreement to sell some or all of the property that is the subject of this Agreement to any other party; or
  - 4.3 Upon the PARTIES entering into an agreement for the EXCHANGE.
5. INDEMNITY. COUNTY shall include appropriate indemnity clauses in any contracts related to the APPRAISAL. Such indemnity clauses shall require the APPRAISER, consultants, subconsultants, contractors, subcontractors, and suppliers to defend, indemnify and hold the PARTIES harmless from all claims, costs, damages, or expenses of any kind, including attorneys' fees and other costs and expenses of litigation, for personal injury or property damage to the extent such claims, costs, damages, or expenses arise out of that PARTY's fault.
6. GENERAL PROVISIONS.
- 6.1 MODIFICATION & WAIVER; INTEGRATION. The rights and duties under this AGREEMENT shall not be modified, delegated, transferred or assigned, except upon the written-signed consent of the PARTIES. Failure to enforce any provision of this AGREEMENT shall not operate as a waiver of such provision or of any other provision. Except for documents and instruments specifically referenced herein, this AGREEMENT constitutes the entire agreement between the

PARTIES regarding the EXCHANGE, and all prior communications verbal or written between the PARTIES shall be of no further effect or evidentiary value.

- 6.2 ATTORNEYS' FEES. Attorney fees, costs, and disbursements necessary to enforce this agreement through mediation, arbitration and/or litigation, including appeals, shall be awarded to the prevailing PARTY, unless otherwise specified herein.
  - 6.3 LEGAL REPRESENTATION. In entering into this AGREEMENT, each PARTY has relied solely upon the advice of their own attorney. Each PARTY has had the opportunity to consult with counsel.
  - 6.4 NOTICES. Any notice required or permitted under this AGREEMENT shall be in writing and deemed given when:
    - 6.4.1 actually delivered if not sent by mail as described below, or
    - 6.4.2 three days after deposit in United States certified mail, postage prepaid, addressed to the other PARTY at their last known address.
  - 6.5 LANGUAGE. The headings of the contract paragraphs are intended for information only and shall not be used to interpret paragraph contents. All masculine, feminine and neuter genders are interchangeable. All singular and plural nouns are interchangeable, unless the context requires otherwise. The words "will" and "shall" are intended to be synonyms having a mandatory meaning.
  - 6.6 SAVINGS. Should any clause or section of this AGREEMENT be declared by a court to be void or voidable, the remainder of this AGREEMENT shall remain in full force and effect.
  - 6.7 JURISDICTION; LAW. This AGREEMENT is executed in the State of Oregon and is subject to Tillamook County and Oregon law and jurisdiction. Venue shall be in Tillamook County, Oregon, unless otherwise agreed by PARTIES.
  - 6.8 NO THIRD PARTY BENEFICIARIES. There are no intended third-party beneficiaries of this AGREEMENT.
7. EFFECTIVE DATE. This AGREEMENT shall take effect on [REDACTED], 2021].

*[Signature Page Follows]*

**STIMSON LUMBER COMPANY**

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Daniel C. McFall, Chief Financial Officer  
and Chief Operating Officer

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**THE BOARD OF COMMISSIONERS  
FOR TILLAMOOK COUNTY, OREGON**

Aye      Nay      Abstain/Absent

\_\_\_\_\_  
Mary Faith Bell, Chair

\_\_\_    \_\_\_    \_\_\_/\_\_\_

\_\_\_\_\_  
David Yamamoto, Vice-Chair

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Erin D. Skaar, Commissioner

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ATTEST:      Tassi O’Neil, County Clerk

APPROVED AS TO FORM.

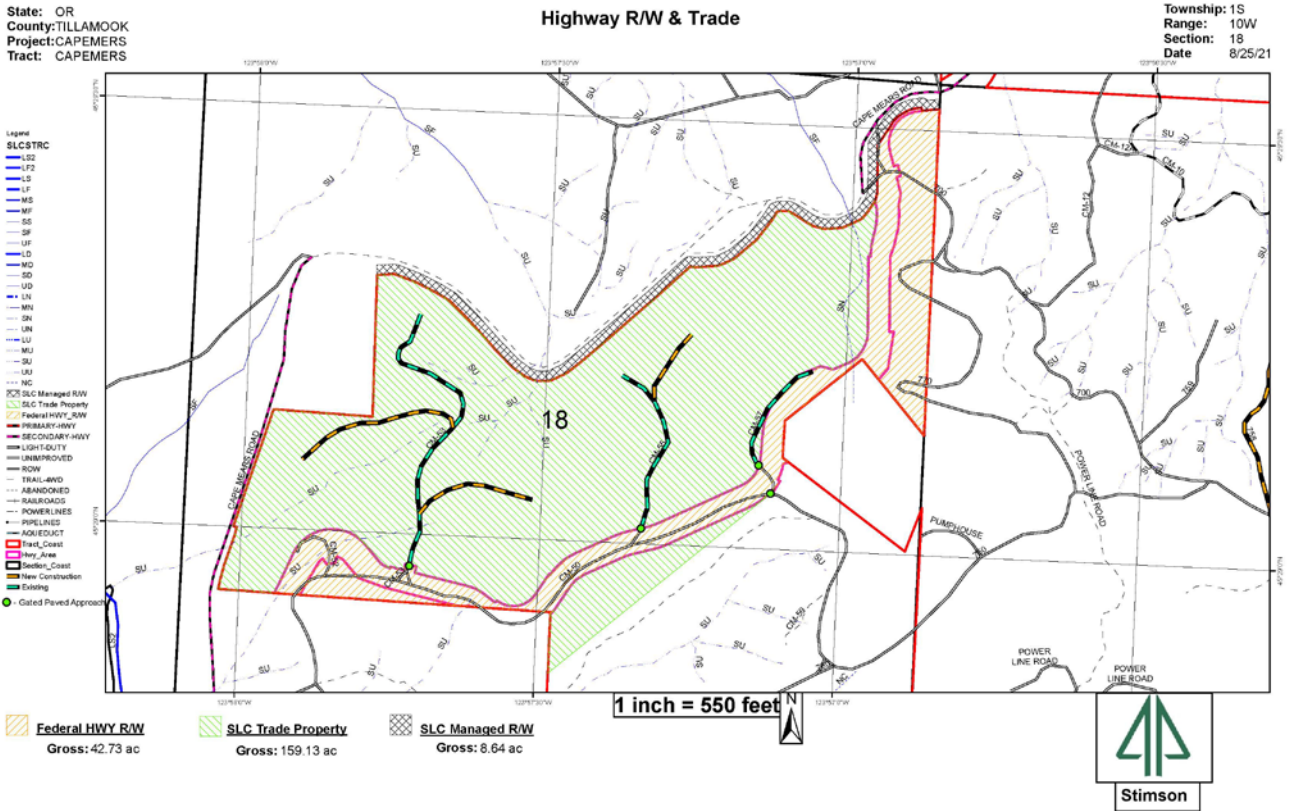
By: \_\_\_\_\_  
Special Deputy

\_\_\_\_\_  
Joel W. Stevens, County Counsel

# EXHIBIT A STIMSON OWNED REAL PROPERTY

## Cape Meares 160 Description

Portions of Tax Lot 802, Section 18, Township 1 South, Range 10 West, W.M. as depicted in the figure below.



**EXHIBIT B**  
**COUNTY OWNED REAL PROPERTY**

Fairview 80 Description

E ½ of the NE ¼ of Section 26, Township 1 South, Range 9 West, W.M.

Hobson 40 Description

NW ¼ of the NW ¼ of Section 15, Township 1 North, Range 10 West, W.M.

Schiffman 29 Description

E ¾ of the SE ¼ of the SW ¼ of Section 31, Township 3 North, Range 9 West, W.M.

Wolf Creek 79 Description

N ½ of the SE ¼ of Section 1, Township 3 North, Range 6 West, W.M.

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