

AGRICULTURAL BUFFERING AGREEMENT

Appendix A
Exhibit 9 suppl

"Effective Date": 10/5/, 2004
(date of last signature)

Parties:

COGSWELL LIMITED PARTNERSHIP,
a Washington Limited Partnership
c/o Hillcrest Corporation
attn: Walter T. Bagnall
2303 Seattle Tower
Seattle, WA 98101

("Cogswell")

ARTHUR R. DUBS
2249 Dellwood Ave.
Medford, OR. 97504

("Dubs")

Recitals:

1. Cogswell is the owner of the real property described in EXHIBIT "A", attached hereto ("Cogswell property"). Dubs is currently the owner of the real property described in EXHIBIT "B", attached hereto ("Dubs property").

2. The parties desire to settle all issues between them relating to the development of the Dubs property (EXHIBIT B) and the creation of an agricultural buffer between their properties (EXHIBITS A and B).

Agreements:

1. No Opposition by Cogswell. Cogswell agrees that neither it nor any Affiliate will appear in opposition to, or appeal the decisions on a Plat Application, a PUD Application or Future Land Use Applications so long as: i) such applications do not seek approval for uses other than those allowed under the Single-Family Residential or Multiple-Family Residential zoning districts of the Medford Land Development Code in effect as of the Effective Date; and ii) such applications or decisions do not allow for modification of the Agricultural Buffer for the property that is the subject of such application or decision, as provided in Section 3 hereof. For purposes of this Agreement, "Affiliate" shall mean with respect to any person or entity: i) any person or entity controlling Cogswell; ii) any person or entity controlled by Cogswell; or iii) any person or entity under common control with Cogswell. The terms "controlling", "controlled by" or "under common control with" shall mean, with respect to an entity, the possession of the power to direct the management and policies of an entity.

2. Water Control, Fencing, Vegetation, Irrigation and Easement. Dubs agrees to provide the following water control, fencing, vegetation, irrigation and easement:

- a) Dubs shall vegetate the agricultural buffer (described in section 3) as required by the Medford Land Development Code and in a manner that will reasonably prevent erosion onto the Cogswell Property. In the event erosion occurs as a result of Dubs negligence, Dubs shall indemnify Cogswell from any costs or damages resulting from erosion.
- b) Dubs shall construct a drain system commonly known as a "french drain" along the entire boundary between the Cogswell property and the Dubs property to prevent the drainage of ground water and surface water from the Dubs property onto the Cogswell property. An engineer shall design the drain system. Dubs shall bear the engineering cost. Cogswell shall have the right to review and approve the engineered plans with Cogswell's own engineer prior to construction. Cogswell's approval shall not be unreasonably or arbitrarily withheld and Cogswell shall bear the expense of it's own engineer.
- c) On or before the expiration of 60 days following the execution of this Agreement, Dubs shall install a standard 7-foot chain link fence on the northern boundary of the Cogswell property. The fence shall be constructed within and immediately adjacent and contiguous to the north boundary of the Cogswell property. The existing fence, brush and other obstacles to the installation of such fence shall be removed by Dubs. The fence will be installed from the northwest corner of the Cogswell property to the westerly terminus of an existing chain link fence along the northerly boundary of the Cogswell property. The fence shall include two gates. One gate shall be installed approximately mid-way in the easterly half of said fence and one gate should be installed approximately mid-way in the westerly half of said fence. The boundary line between the Cogswell property and the Dubs property shall be surveyed and staked prior to the construction of the fence. Dubs shall bear the cost of the survey and staking. Cogswell shall have the right to review and approve the survey and staking prior to the construction of the fence. Cogswell's approval shall not be unreasonably or arbitrarily withheld.
- d) Dubs shall vegetate the agricultural buffer (described in Section 3) prior to receiving final plat approval from the City of Medford. When the agricultural buffer is planted with vegetation, Dubs shall construct an irrigation system adequate to support the vegetation. The irrigation system may be constructed in a manner allowing the

use of a single water meter. Dubs shall be responsible for providing water to vegetation within the agricultural buffer during development of the subdivision and shall also be responsible for replacing or repairing any damage to the vegetation, irrigation system or the boundary fence occurring during development and construction of the subdivision. After a homeowner's association has been formed for the purpose of managing common areas within the subdivision (the Dubs property), the homeowner's association shall also be responsible for providing adequate water to vegetation within the agricultural buffer and shall be further responsible for replacing or repairing any damage to the vegetation, the irrigation system or the boundary fence. Upon receiving final plat approval, Dubs agrees to record restrictive covenants creating the homeowner's association and requiring said association to maintain and replace any damaged or dead vegetation within the agricultural buffer requiring the association to provide adequate water to such vegetation and requiring the association to replace or repair any damage to the irrigation system or the boundary fence between the Dubs and Cogswell properties. Dubs shall provide a copy of the restrictive covenant to Cogswell within a reasonable time after receiving final plat approval. The irrigation system shall be constructed in a manner that will permit Cogswell to access and utilize city water for the purpose of providing water to the vegetation within the agricultural buffer. Cogswell's access to city water for such purposes shall be located within the easement described in Section 2(e) of this agreement. Cogswell shall not be required to water or maintain any vegetation within the agricultural buffer (which shall remain the responsibility of Dubs and the homeowner's association), but may do so at its discretion. Dubs and/or the homeowner's association shall pay the cost of any city water furnished to irrigate vegetation within the agricultural buffer.

- e) Upon approval of any tentative plat for the development of the Dubs property, Dubs shall forthwith execute and record a non-exclusive, perpetual easement granting Cogswell the right to enter upon the agricultural buffer described herein for the purpose of maintaining, replacing, adding or improving the vegetation, or using, maintaining or replacing the irrigation system.

3. Agricultural Buffer. The Cogswell property is used for agricultural purposes. Dubs intends to develop his property for residential purposes. In order to provide a buffer between the agricultural use and residential use on the properties, Dubs shall provide one or more of the following buffers (depending on the type of use) within the Dubs property:

- a) Single-family residential. If the use is single-family residential, as

defined in the Medford Code as of the Effective Date, the following buffering requirements shall apply:

- i) A 50-foot agricultural buffer shall be designated on the tentative and final subdivision plats and shall be described in restrictive covenants. The agricultural buffer is to be located along the most southerly portion of the Dubs property and adjacent to the boundary with the Cogswell property. Notwithstanding anything herein to the contrary, the agricultural buffer shall be 75 feet along a portion of the most southerly boundary with the Cogswell property. The westerly end of the portion of the boundary affected by the 75 foot buffer is to be located in the center of a gully located in the easterly portion of the common boundary between the Dubs property and the Cogswell property. The easterly end of the boundary affected by the 75 foot buffer is the easterly end of common boundary between the Dubs property and the Cogswell property. Upon receiving final plat approval, Dubs agrees to place restrictive covenants on the Dubs property imposing the agricultural buffer requirements provided for herein and, specifically, providing that within areas designated for single-family residential use, no structures or improvements of any type or nature will be erected, placed, altered or permitted to remain on, under or within the agricultural buffer, except as provided herein.
- ii) Ground cover shall be planted in a 25-foot wide area within the southerly most portion of the agricultural buffer. The ground cover species shall include *Arctostaphylos* v. 'Emerald Carpet' (Kinnikinnick), *Cotoneaster salicifolia* 'Repens' (Willowleaf Cotoneaster) and *Baccharis pilularis* (Coyote Brush). Alternate species may include *Arctostaphylos* v. 'Massachusetts' (Kinnikinnick), *Cotoneaster dammerii* 'Lowfast' (Bearberry Cotoneaster) and *Hypericum Calycinum* (St. Johns Wart). These species are the same species used between the southerly boundary of McAndrews Road and the northerly boundary of the Cogswell property in a location that is easterly of the agricultural buffer described in this agreement. Dubs will provide any additional landscape vegetation required by the City of Medford pursuant to its land development code.
- iii) No habitable structures may be constructed within the 50 or 75 foot agricultural buffer. Garages and other non-habitable structures may be constructed in the northerly 25 feet of the agricultural buffer, provided the doors and other openings to

any such buildings face north. No uncovered or unenclosed garages, habitable structures or open-air parking areas maybe constructed or maintained within the 50 or 75 foot agricultural buffer.

- b) Multiple-family residential. If the use is multiple-family residential, as defined in the Medford Code as of the Effective Date, the following buffering requirements shall apply:
- i) A 50-foot agricultural buffer shall be designated on the tentative and final subdivision plats and shall be described in restrictive covenants. The agricultural buffer is to be located along the most southerly portion of the Dubs property and adjacent to the boundary with the Cogswell property. Notwithstanding anything herein to the contrary, the agricultural buffer shall be 75 feet along a portion of the most southerly boundary with the Cogswell property. The westerly end of the portion of the boundary affected by the 75 foot buffer is to be located in the center of a gully located in the easterly portion of the common boundary between the Dubs property and the Cogswell property. The easterly end of the boundary affected by the 75 foot buffer is the easterly end of common boundary between the Dubs property and the Cogswell property. Upon receiving final plat approval, Dubs agrees to place restrictive covenants on the Dubs property imposing the agricultural buffer requirements provided for herein and, specifically, providing that within areas designated for single-family residential use, no structures or improvements of any type or nature will be erected, placed, altered or permitted to remain on, under or within the agricultural buffer, except as provided herein.
 - ii) Ground cover shall be planted in a 25-foot wide area within the southerly most portion of the agricultural buffer. The ground cover species shall include *Arctostaphylos* v. 'Emerald Carpet' (Kinnikinnick), *Cotoneaster salicifolia* 'Repens' (Willowleaf Cotoneaster) and *Baccharis pilularis* (Coyote Brush). Alternate species may include *Arctostaphylos* v. 'Massachusetts' (Kinnikinnick), *Cotoneaster dammerii* 'Lowfast' (Bearberry Cotoneaster) and *Hypericum Calycinum* (St. Johns Wart). These species are the same species used between the southerly boundary of McAndrews Road and the northerly boundary of the Cogswell property in a location that is easterly of the agricultural buffer described in this agreement. Dubs will provide any additional landscape vegetation required by the

City of Medford pursuant to its land development code.

iii) No habitable structures may be constructed within the 50 or 75 foot agricultural buffer. Garages and other non-habitable structures may be constructed in the northerly 25 feet of the agricultural buffer, provided the doors and other openings to any such buildings face north. No uncovered or unenclosed garages, habitable structures or open-air parking areas may be constructed or maintained within the 50 or 75 foot agricultural buffer.

- c) Plat/deed declaration. Upon receiving final plat approval, Dubs agrees that restrictive covenants shall forthwith be placed on the Dubs property and on the final subdivision plat and such restrictive covenants shall: i) identify and describe the applicable agricultural buffer described above (the restrictive covenants, not the plats, shall describe each of the buffering requirements applicable to the intended use); ii) include the following declaration, "This property abuts or lies within close proximity to agricultural land. Property owners may be subjected to noise, dust, odor, spray residue or other types of pollution incidental to common, customary and accepted farm practices"; iii) contain a restriction that removal or damage to boundary line fences on the Cogswell property is prohibited; iv) contain a restriction to the effect that the construction of cross fences in the most southerly 25 feet of the agricultural buffer is prohibited unless gates are included in the fences in order to allow Cogswell to exercise the easements rights granted pursuant to this agreement and v) contain a requirement that the owners of property adjacent to the Cogswell property notify the superintendent of Hillcrest Orchard prior to spraying any chemicals within 100 feet of the Cogswell property.
- d) Additional restrictions and covenants. Upon receiving final plat approval Dubs shall forthwith place and record restrictive covenants against the entire Dubs property which provide for the acknowledgments and restrictions set forth in EXHIBIT "C" which is attached hereto.
- e) Utility system appurtenances. Cogswell acknowledges that the following above ground appurtenances to utility systems do not constitute structures and may be permitted within agricultural buffers: transformers, vaults, manholes and other vertical appurtenances associated with underground utilities. Cogswell acknowledges that the following are examples of non-habitable structures: covered, enclosed garages, workshops, storage sheds

and greenhouses with openings that face north. Swimming pools are not permitted within the agricultural buffer.

- f) Buffering ordinance. Dubs agrees to file an agricultural impact assessment with the City of Medford the first time any land use application is filed for any portion of the Dubs property. Dubs further agrees that the agricultural impact assessment will be consistent with the terms and provisions contained in this Agreement.
- g) Conditions of tentative plat approval. Dubs and Cogswell acknowledge that city determinations regarding agricultural buffers are land use decisions, subject to land use decision laws, regulations and ordinances. Upon application for tentative plat approval for any portion of the Dubs property, Dubs will request that the City of Medford include, as a condition of approval, compliance by Dubs with the terms and provisions of this agreement.
- h) No opposition. Cogswell acknowledges the foregoing actions to create a buffer between the agricultural and residential uses are reasonable, sufficient and satisfactory. Cogswell agrees that in any land use proceedings affecting the Dubs property, neither it or its Affiliates will, directly or indirectly, seek, promote or suggest, or take any action which might further, the imposition of requirements for additional buffering between the agricultural use on the Cogswell property and the residential use on the Dubs property.

4. General Provisions.

- a) Governing Law. This Agreement shall be construed in accordance with the laws of the State of Oregon.
- b) Beneficiaries. This Agreement is not for the benefit of any third parties and no one who is not a party to this Agreement may bring any legal action to enforce this Agreement against anyone who is a party.
- c) Entire Agreement. This Agreement is the sole and entire agreement between the parties concerning the matters herein contained.
- d) Amendment. This Agreement may be modified or amended only by a writing signed by the parties.
- e) Headings. Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the

provisions of this Agreement.

- f) Severability. If a court of competent jurisdiction or an arbitrator finds any provision of this Agreement to be invalid or unenforceable as to any person or circumstance, such findings shall not render that provision invalid or unenforceable as to any other persons or circumstances, and all other provisions of this Agreement in all other respects shall remain valid and enforceable.
- g) Interpretation and Construction. The provisions of this Agreement have been examined, negotiated, and revised by counsel for each Party, and no implication shall be drawn against any Party hereto by virtue of the drafting of this Agreement.
- h) Attorneys. Cogswell is represented by Kellington, Krack, Richmond, Blackhurst, Sutton & Glatte, LLP, Medford, Oregon. Dubs is represented by Frohnmayer, Deatherage, Pratt, Jamieson, Clarke & Moore PC, Medford, Oregon. Each of the parties is relying entirely upon the advice and counsel of their separate attorneys and acknowledge that they are voluntarily entering into this Agreement with the advice and consent of their own attorneys. Each party further acknowledges that they are not relying upon the attorney or attorneys of the other party for the preparation of this Agreement or for any matter whatsoever.

5. Binding Effect. This Agreement is binding on and will inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

6. Execution. This Agreement will be executed in duplicate originals. Each original may consist of multiple counterpart signature pages. Facsimile copies of signatures will be deemed as effective as original signatures, but will be replaced with original signatures as soon as possible.

7. Notice. Any notice or communication given pursuant to this Agreement shall be in writing and shall be given by personal delivery, by United States mail or United States Express Mail, or other established express delivery service, postage or delivery charges prepaid, return receipt requested, to the addresses listed below. All notices shall be deemed given upon "receipt", meaning the earliest of any of the following: (A) the date of delivery of the notice as shown on the return receipt; (b) the date of actual receipt; or (c) the date of attempted delivery, as evidenced by postmark on the return receipt or the date of receipt of notice of non-delivery.

If to Cogswell:

Carl R. Krack
Kellington, Krack, Richmond, Blackhurst and Sutton, LLP
P.O. Box 1583
Medford, OR 97501

If to Dubs:

Arthur R. Dubs
2249 Dellwood Ave.
Medford, OR. 97504

8. Attorney Fees. In the event of any suit, action or arbitration arising out of this Agreement, or in the further event suit or action is instituted to enforce any of the restrictions, covenants or agreements contained herein, the prevailing party shall be entitled to his or its reasonable attorneys fees in such suit, action or arbitration and shall be entitled to recover from the losing party such sums as the court may adjudge reasonable as attorney fees in such case, suit or action or in any appeal therefrom.

IN WITNESS WHEREOF, the Parties have hereto affixed their signatures.

Dated: June 29, 2004

COGSWELL LIMITED PARTNERSHIP

By Walter T. Bagnall
Walter T. Bagnall, President
and CEO of Hillcrest Corpora-
tion, its General Partner

Dated: 10/5, 2004

Arthur R. Dubs

By Arthur R. Dubs
Arthur R. Dubs

EXHIBIT A

All of Donation Land Claim No. 60 in Township 37 South, Range 1 West, of the Willamette Meridian in Jackson County, Oregon, being more particularly described as follows: Beginning at a point 6.75 chains (445.5 feet) West the corner common to Sections 21, 22, 27 and 28 in said Township and Range thence East 28.65 chains (1890.9 feet); thence North 55.77 chains (3680.82 feet); thence West 28.65 chains (1890.9 feet); thence South 55.77 chains (3680.82 feet) to the point of beginning. EXCEPTING THEREFROM those portions conveyed to Jackson County, Oregon by instruments recorded as No. 68-07081 and No. 81-05690 of the Official Records of Jackson County, Oregon. Also that portion of Hillcrest Road vacated by Order No. 130-81 of the Jackson County Board of Commissioners and recorded as No. 81-12548, said Official Records. Also, a strip of land ten (10) feet in width, adjoining and parallel with the south line of Government Lot Three (3), in Section 21, Township 37 South, Range 1 West of the Willamette Meridian, in Jackson County, Oregon, described as follows: Beginning at the northwest corner of Donation Land Claim No. 60, in said Township and Range, thence North 10 feet; thence East and parallel with the south line of Government Lot Three (3) a distance of 446 feet, more or less, to the east line of said Lot Three (3); thence South, along said east line, 10 feet to the south line of Lot 3; thence West, along said south line, to the place of beginning. Also a strip of land ten (10) feet in width adjoining and parallel with the south line of Government Lots One and Two (1 and 2), in Section 22, Township 37 South, Range 1 West of the Willamette Meridian, in Jackson County, Oregon, described as follows: Beginning at the southwest corner of said Government Lot One (1), thence North on the west line thereof, 10 feet; thence East, parallel with the south line of said Lot One, a distance of 1464 feet; thence South 10 feet; thence West, along said south line of Government Lots One and Two (1 and 2) to the place of beginning. Also, all that portion, if any, of that tract described in instrument recorded in Volume 590 page 369 of the Deed Records of Jackson County, Oregon, lying Southerly of the following described line: Commencing at the northwest corner of Donation Land Claim No. 60, Township 37 South, Range 1 West, Willamette Meridian, Jackson County, Oregon; thence North 00°11'15" East (Record North 00°09' East) 10.00 feet; thence South 89°51'03" East 503.85 feet (Record South 89°35'20" East 504.97 feet) to a 3/4" iron pipe for the point of beginning; thence South 89°45'26" East 566.60 feet to a 1/2" iron pipe at the point of terminus.

(Code 49-3, Account #1-042514-0, Map #371W22, Tax Lot #500)

Commencing at a point 445.50 feet West of the corner common to Sections 22, 27 and 28 in Township 37 South, Range 1 West of the Willamette Meridi in Jackson County, Oregon, thence North 2222.99 feet to the point of beginning, being on the east line of Donation Land Claim No. 61 in said Township and Range; thence West 1391.28 feet, to west line of said Claim; thence North 1502.87 feet, to the northwest corner of said Claim; thence East 1391.28 feet to the northeast corner thereof; thence South 1502.87 feet to the point of beginning.

(Code 49-30, Account #1-049675-5, Map #371W21A, Tax Lot #1400)

TRACT A (DUBS):

Beginning at the east southeast corner of Donation Land Claim No. 63 in Township 37 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon; thence along the east line of said Donation Land Claim, North 0°09' East 1163.21 feet to a 3/4" iron pipe; thence South 89°35'20" East 1502.18 feet to a 3/4" iron pipe; thence South 0°09' West 1153.21 feet to a 3/4" iron pipe; thence North 89°35'20" West, 504.97 feet; thence South 0°09' West 10.00 feet to the northwest corner of Donation Land Claim No. 60, said Township and Range; thence North 89°35'20" West 997.19 feet to the point of beginning.

(Code 49-01, Account #1-049666-8, Map #371W21A, Tax Lot #200)

EXCEPTING THEREFROM the following described parcels vested in the City of Medford by virtue of Final Judgment dated June 19, 2002 in Circuit Court Case No. 001312-E-2 for the State of Oregon:

Parcel 1 (City of Medford - Fee)

A parcel of land lying in the Northeast quarter of Section 21, and the Northwest quarter of Section 22, Township 37 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon and being a portion of that property described in that deed to Arthur R. Dubs, recorded December 14, 1989 as Document No. 89-29457 of the Official Records of Jackson County; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Northerly side of the center line of East McAndrews Road, which center line is described as follows: Beginning at Engineer's center line Station 31+09.88, said station being 871.88 feet South and 822.33 feet East of the North quarter corner of Section 21, Township 37 South, Range 1 West of the Willamette Meridian; thence North 64°52'37" East 595.96 feet; thence along the arc of a 477.46 foot radius curve right (the long chord of which bears South 89°53'55" East 406.96 feet) 420.41 feet; thence South 64°40'27" East 531.92 feet; thence along the arc of a 716.20 foot radius curve right (the long chord of which bears South 49°43'22" East 369.55 feet) 373.78 feet; thence South 34°46'18" East 429.19 feet; thence along the arc of a 477.46 foot radius curve left (the long chord of which bears South 61°34'48" East 430.68 feet) 446.81 feet; thence South 88°23'19" East 823.15 feet; thence along the arc of a 477.46 foot radius curve right (the long chord of which bears South 57°08'24" East 495.37 feet) 520.81 feet; thence South 25°53'30" East 1644.15 feet; thence along the arc of a 954.93 foot radius curve left (the long chord of which bears South 42°25'28" East 543.48 feet) 551.10 feet; thence South 58°57'27" East 490.67 feet to Engineer's center line Station 99+38. The widths in feet of the strip of land above referred to are as follows:

Station	to	Station	Width on Northerly Side of Center Line
31+81.28		35+76	74.33 in a straight line to 45
35+76		37+55	45
37+55		39+50	47
39+50		39+73	47 in a straight line to 68
39+73		40+26	68 in a straight line to 68
40+26		40+50	68 in a straight line to 47
40+50		42+45	47
42+45		50+25	45
50+25		52+00	47
52+00		52+20	47 in a straight line to 67
52+20		52+80	67
52+80		53+00	67 in a straight line to 47
53+00		54+95	47

Parcel 2 (City of Medford - Fee):

A parcel of land lying in the Northeast quarter of Section 21, and the Northwest quarter of Section 22, Township 37 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon and being a portion of that property described in that deed to Arthur R. Dubs, recorded December 14, 1989 as Document No. 89-29457 of the Official Records of Jackson County; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Southerly side of the center line of East McAndrews Road, which center line is described in Parcel 1. The widths in feet of the strip of land above referred to are as follows:

Station	to	Station	Width on Southerly Side of Center Line
35+00		37+55	40
37+55		39+45	42
39+45		39+65	42 in a straight line to 65
39+65		40+35	65 in a straight line to 65
40+35		40+55	65 in a straight line to 42
40+55		42+45	42
42+45		50+25	40
50+25		52+00	42
52+00		52+20	42 in a straight line to 62
52+20		52+80	62
52+80		53+00	62 in a straight line to 42
53+00		54+95	42

TRACT B (DUBS):

Commencing at the northeast corner of Donation Land Claim No. 63 in Township 37 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon, said point also being the northeast corner of Lot One (1) in Block One (1) of PIERCE SUBDIVISION, according to the official plat thereof, now of record; thence South 0°09' West along the east line of said Lot One (1), a distance of 305.24 feet to the true point of beginning; thence South 87°30' West 342.26 feet to a point on the east line of County Road; thence West 60.00 feet to the west line of County Road; thence South 0°14'20" West 331.04 feet along the west line of said Road; thence East 60.00 feet to a 1" iron pipe on the east line of County Road (from which the northeast corner of said Claim No. 63 bears North 651.21 feet and East 344.16 feet); thence South 41°25' East 334.26 feet; thence South 29°48'40" West 81.81 feet; thence South 40°28'30" West 128.02 feet to a 1" iron pipe on the south line of Lot Two (2) in

116109 (continued)

Block One (1) of said Subdivision; thence South 89°37'20" East 243.96 feet to the southeast corner of said Lot Two (2); thence North 0°09' East along the east line of Lots Two (2) and One (1), a distance of 766.63 feet to the true point of beginning.

(Code 49-03, Account #1-049673-1, Map #371W21A, Tax Lot #1000)

EXCEPTING THEREFROM the following described parcels vested in the City of Medford by virtue of Final Judgment dated June 19, 2002 in Circuit Court Case No. 001312-E-2 for the State of Oregon:

Parcel 1 (City of Medford - Fee):

A parcel of land lying in the Northeast quarter of Section 21, Township 37 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon and being a portion of that property described in that deed to Russell R. Zundel and Edna F. Zundel, recorded October 8, 1954 as Volume 400, Page 323 of the Official Records of Jackson County; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Northerly side of the center line of East McAndrews Road, which center line is described as follows: Beginning at Engineer's center line Station 31+09.88, said station being 871.88 feet South and 822.33 feet East of the North quarter corner of Section 21, Township 37 South, Range 1 West of the Willamette Meridian; thence North 64°52'37" East 595.96 feet; thence along the arc of a 477.46 foot radius curve right (the long chord of which bears South 89°53'55" East 406.96 feet) 420.41 feet; thence South 64°40'27" East 531.92 feet; thence along the arc of a 716.20 foot radius curve right (the long chord of which bears South 49°43'22" East 369.55 feet) 373.78 feet; thence South 34°46'18" East 429.19 feet; thence along the arc of a 477.46 foot radius curve left (the long chord of which bears South 61°34'48" East 430.68 feet) 446.81 feet; thence South 88°23'19" East 823.15 feet; thence along the arc of a 477.46 foot radius curve right (the long chord of which bears South 57°08'24" East 495.37 feet) 520.81 feet; thence South 25°53'30" East 1644.15 feet; thence along the arc of a 954.93 foot radius curve left (the long chord of which bears South 42°25'28" East 543.48 feet) 551.10 feet; thence South 58°57'27" East 490.87 feet to Engineer's Center line Station 99+38. The widths in feet of the strip of land above referred to are as follows:

Station	to	Station	Width on Northerly Side of Center Line
31+09.88		31+81.28	0 in a straight line to 74.33
31+81.28		35+76	74.33 in a straight line to 45

Parcel 2 (City of Medford - Fee):

A parcel of land lying in the Northeast quarter of Section 21, Township 37 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon and being a portion of that property described in that deed to Russell R. Zundel and Edna F. Zundel, recorded October 8, 1954 as Volume 400, Page 323 of the Official Records of Jackson County; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Southerly side of the center line of East McAndrews Road, which center line is described in Parcel 1. The widths in feet of the strip of land above referred to are as follows:

Station	to	Station	Width on Southerly Side of Center line
31+13.80		35+00	53.42 in a straight line to 40
35+00		37+05.84	40

TRACT C (CITY OF MEDFORD):
FEE

A parcel of land lying in the Northeast quarter of Section 21, and the Northwest quarter of Section 22, Township 37 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon and being a portion of that property described in that deed to Arthur R. Dubs, recorded December 14, 1989 as Document No. 89-29457 of the Official Records of Jackson County; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Northerly side of the center line of East McAndrews Road, which center line is described as follows: Beginning at Engineer's center line Station 31+09.88, said station being 871.88 feet South and 822.33 feet East of the North quarter corner of Section 21, Township 37 South, Range 1 West of the Willamette Meridian; thence North 64°52'37" East 595.96 feet; thence along the arc of a 477.46 foot radius curve right (the long chord of which bears South 89°53'55" East 406.96 feet) 420.41 feet; thence South 64°40'27" East 531.92 feet; thence along the arc of a 716.20 foot radius curve right (the long chord of which bears South 49°43'22" East 369.55 feet) 373.78 feet; thence South 34°46'18" East 429.19 feet; thence along the arc of a 477.46 foot radius curve left (the long chord of which bears South 61°34'48" East 430.68 feet) 446.81 feet; thence South 88°23'19" East 823.15 feet; thence along the arc of a 477.46 foot radius curve right (the long chord of which bears South 57°08'24" East 495.37 feet) 520.81 feet; thence South 25°53'30" East 1644.15 feet; thence along the arc of a 954.93 foot radius curve left (the long chord of which bears South 42°25'28" East 543.48 feet) 551.10 feet; thence South 58°57'27" East 490.87 feet to Engineer's center line Station 99+38. The widths in feet of the strip of land above referred to are as follows:

Station	to	Station	Width on Northerly Side of Center Line
31+81.28		35+76	74.33 in a straight line to 45
35+76		37+55	45
37+55		39+50	47
39+50		39+73	47 in a straight line to 68
39+73		40+26	68 in a straight line to 68
40+26		40+50	68 in a straight line to 47
40+50		42+45	47
42+45		50+25	45
50+25		52+00	47
52+00		52+20	47 in a straight line to 67
52+20		52+80	67
52+80		53+00	67 in a straight line to 47
53+00		54+95	47

TRACT D (CITY OF MEDFORD):
FEE

A parcel of land lying in the Northeast quarter of Section 21, and the Northwest quarter of Section 22, Township 37 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon and being a portion of that property described in that deed to Arthur R. Dubs, recorded December 14, 1989 as Document No. 89-29457 of the Official Records of Jackson County; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Southerly side of the center line of East McAndrews Road, which center line is described in Parcel 1. The widths in feet of the strip of land above referred to are as follows:

Station	to	Station	Width on Southerly Side of Center Line
35+00		37-55	40

116109	(continued)	
37+55	39+45	42
39+45	39+65	42 in a straight line to 65
39+65	40+35	65 in a straight line to 65
40+35	40+55	65 in a straight line to 42
40+55	42+45	42
42+45	50+25	40
50+25	52+00	42
52+00	52+20	42 in a straight line to 62
52+20	52+80	62
52+80	53+00	62 in a straight line to 42
53+00	54+95	42

TRACT E (CITY OF MEDFORD):

Permanent Slope Easement

A parcel of land lying in the Northeast quarter of Section 21, and the Northwest quarter of Section 22, Township 37 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon and being a portion of that property described in that deed to Arthur R. Dubs, recorded December 14, 1989 as Document No. 89-29457 of the Official Records of Jackson County; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Northerly side of the center line of East McAndrews Road, which center line is described in Parcel 1. EXCEPT THEREFROM Parcel 1. The widths in feet of the strip of land above referred to are as follows:

Station	to	Station	Width on Northerly Side of Center Line
32+28.47		35+76	167.25 in a straight line to 70
35-76		39+50	70
39+50		40+90	85
40+90		45+55	85 in a straight line to 90
45+55		53+00	90

This parcel of land contains 1.46 acres, more or less, outside of the existing right of way.

TRACT F (CITY OF MEDFORD):

Permanent Slope Easement

A parcel of land lying in the Northeast quarter of Section 21, and the Northwest quarter of Section 22, Township 37 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon and being a portion of that property described in that deed to Arthur R. Dubs, recorded December 14, 1989 as Document No. 89-29457 of the Official Records of Jackson County; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Southerly side of the center line of East McAndrews Road, which center line is described in Parcel 1. EXCEPT THEREFROM Parcel 2. The widths in feet of the strip of land above referred to are as follows:

Station	to	Station	Width on Southerly Side of Center Line
30+48.78		35+00	196.55 in a straight line to 75
35+00		41-26.25	75
41-26.25		47-00	75 in a straight line to 45
47+00		54-00	45 in a straight line to 75
54+00		55+00	75

This parcel of land contains 1.31 acres, more or less, outside of the existing right of way.

116109 (continued)

County; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Northerly side of the center line of East McAndrews Road, which center line is described in Parcel 1. EXCEPT THEREFROM Parcel 1. The widths in feet of the strip of land above referred to are as follows:

Station	to	Station	Width on Northerly Side of Center Line
31+09.88		32+28.47	0 in a straight line to 167.25
32+28.47		35+76	167.25 in a straight line to 70
35+76		37+08.54	70

This parcel of land contains 0.33 acre, more or less, outside of the existing right of way.

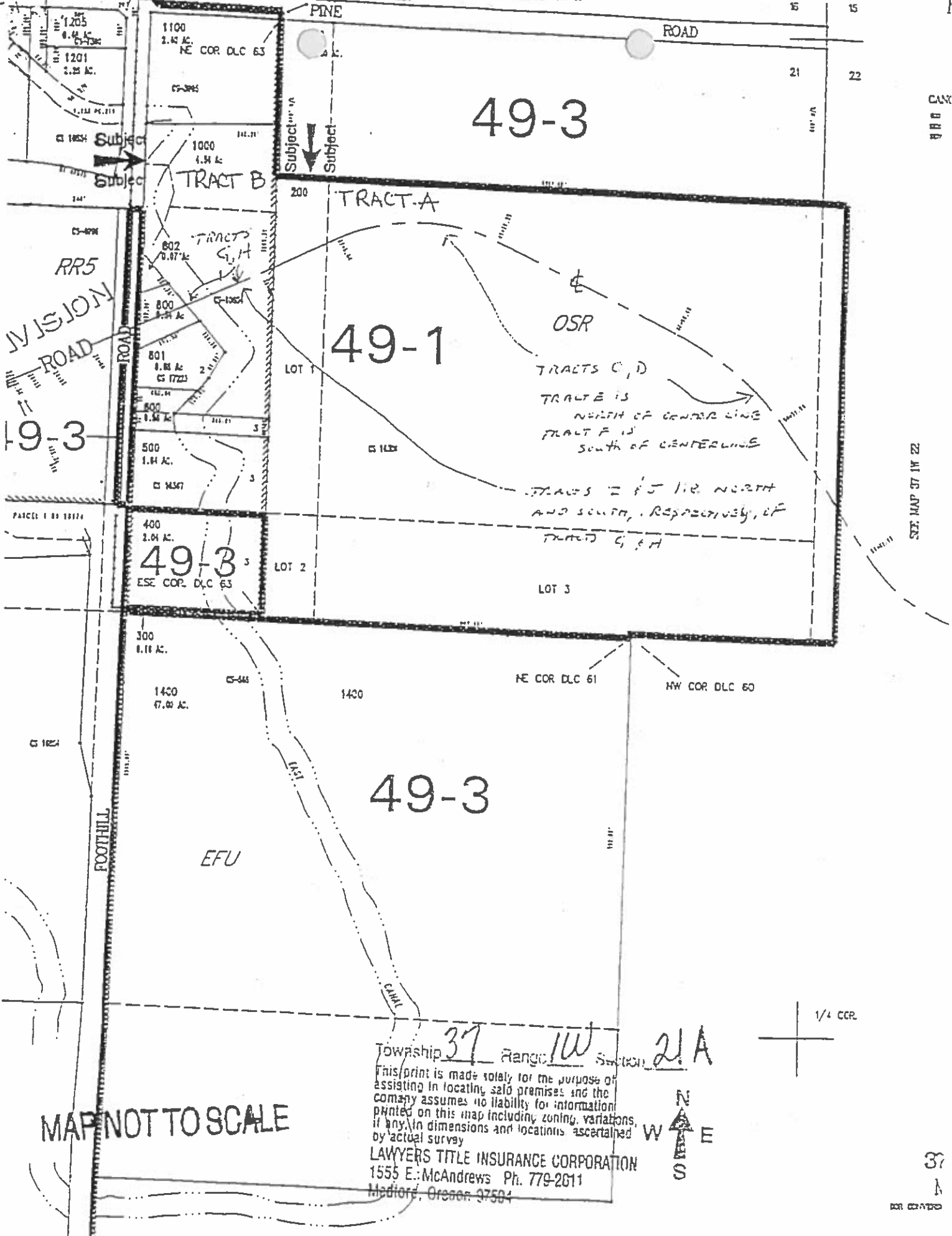
TRACT J (CITY OF MEDFORD):

Permanent Slope Easement

A parcel of land lying in the Northeast quarter of Section 21, Township 37 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon and being a portion of that property described in that deed to Russell R. Zundel and Edna F. Zundel, recorded October 8, 1954 as Volume 400, Page 323 of the Official Records of Jackson County; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Southerly side of the center line of East McAndrews Road, which center line is described in Parcel 1. EXCEPT THEREFROM Parcel 2. The widths in feet of the strip of land above referred to are as follows:

Station	to	Station	Width on Southerly Side of Center Line
30+48.78		35+00	186.55 in a straight line to 75
35+00		37+05.84	75

This parcel of land contains 0.16 acre, more or less, outside of the existing right of way.



49-3

49-1

49-3

49-3

RR5
DIVISION
ROAD

PINE ROAD

FOOTHILL ROAD

1100
2.42 AC.
NE COR. D.L.C. 63

1000
1.34 AC.

802
0.87 AC.

800
0.54 AC.

801
0.88 AC.
CS 1723

800
1.54 AC.

500
1.14 AC.

400
1.04 AC.

300
0.11 AC.

1400
67.00 AC.

Subject
Subject

LOT 1

LOT 2

LOT 3

NE COR. D.L.C. 61

NW COR. D.L.C. 60

OSR

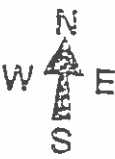
TRACTS C, D
TRACT E IS
NORTH OF CENTER LINE
TRACT F IS
SOUTH OF CENTERLINE

TRACTS E, F, G, H, I
NORTH AND SOUTH, RESPECTIVELY, OF
TRACTS C, D, E, F, G, H

Township 37 Range 1W Section 21A

This print is made solely for the purpose of assisting in locating said premises and the company assumes no liability for information printed on this map including zoning, variations, if any, in dimensions and locations ascertained by actual survey.

LAWYERS TITLE INSURANCE CORPORATION
1555 E. McAndrews Ph. 779-2611
Medford, Oregon 97504



1/4" = 100'

MAP NOT TO SCALE

37

FOR COPIES

EXHIBIT C

RESTRICTIVE COVENANTS

Restrictive covenants containing, substantially, the following acknowledgments and restrictions will be recorded against the Dubs Property:

"These covenants shall constitute covenants to run with all of the land and shall be binding on all persons claiming under such land and that these restrictions shall be for the benefit of and a limitation upon all owners of the Property.

The purpose of these covenants is to ensure that the Property is in accordance with the conditions herein and to address certain farming related impacts originating outside the Property.

The Property is located near agricultural land, and some of the Property is located within two hundred feet (200') of agricultural land. Nearby residences and other structures may be subjected to noise, dust, odor, spray residue and other types of pollution incidental to common, customary and accepted farm practices. Accordingly, owners of the Property release and discharge and agree to hold Declarant-harmless as a result of any of the foregoing.

The agricultural land near the Property has established a "right to farm" as provided by Oregon Law, including, but not limited to Oregon Revised Statutes 30.930 *et seq.* and Oregon Laws 1993, Chapter 792, and there exists certain limitations on lawsuits against or relating to the farm or the farming practices and the impacts to the Property as a result thereof.

Declarant and Declarant's heirs, legal representatives, assigns, and lessees hereby acknowledge and agree to accept by the placement of this covenant or the acceptance and recording of this instrument that the Property herein described is situated near farm land, and as such may be subject to common, customary, and accepted farm practices which ordinarily and necessarily produce truck and heavy machinery traffic and noise, dust, smoke, and other types of visual, odor, vibration, spray or mist from irrigation or chemical use, application of pesticides, noise and other generally accepted, reasonable and prudent methods in conjunction with farm use which Declarant accepts as

normal and necessary farm management practices, and as part of purchasing, constructing or placing residential or other structures in a resource area. All such person(s) acknowledge that noise levels from said farm operation may sometimes exceed maximum noise level standards identified by federal, state or local law or regulation and waive any and all claims each may have against any and all person(s) as a result of noise levels exceeding maximum noise level standards caused by farm operations on the nearby agricultural property.

The use of the herbicide 2-4 dichlorophenoxyacetic acid ("2,4-D") and certain trees, shrubs and other vegetation, are prohibited on the Property. Declarant, Declarant's heirs, legal representatives, assigns and lessees shall not plant any of the host plants listed below:

1. Apple trees, all species
2. Pear trees, all species
3. Hawthorn trees
4. Quince, all species
5. Pyracantha
6. Crab apple trees, all species
7. Walnut trees, all species
8. Cotoneaster
9. Mountains ash trees
10. Peach trees, all species
11. Photinia

These covenants shall run with the land and shall be binding on all parties until 10 years from the date hereof, at which time, provided the adjacent farm is being used for farm purposes, the covenants shall automatically extend for successive periods of 10 years unless an instrument signed by the adjacent farm owner (Cogswell Limited Partnership or its successor) and a majority of the then owners of the lots within the Property has been recorded agreeing to terminate or change these covenants in whole or in part.

The foregoing restrictions shall bind and inure to the benefit of, and be enforceable by suit in equity or an action at law for damages by Cogswell Limited Partnership, its successors or assigns, and by the owners of the above described land, their legal representatives, successors or assigns, and failure either by Cogswell, its successors or by the owners, or their successors, to enforce any of such conditions or

restrictions shall in no event be deemed a waiver of the right to do so thereafter.

Cogswell Limited Partnership, its legal representatives, successors or assigns (the owner of the adjoining farm property) shall be considered a party to this covenant and shall have the right to enforce the same by judicial or administrative proceeding. The covenant contained herein cannot be removed or modified without the written consent of Cogswell Limited Partnership, its legal representatives, successor or assigns, as long as Cogswell's farm, or any portion thereof, continues to be used for farming purposes.

In case suit or action is instituted to enforce any of the foregoing covenants, the prevailing party in such case, suit or action shall be entitled to recover from the losing party such sum as the court may adjudge reasonable as attorney fees in such case, suit or action or in any appeal therefrom.

Invalidation of any of these covenants shall not effect any of the other provisions which shall remain in full force and effect."