

‘SALMON’ TIMBER SALE CONTRACT

THIS CONTRACT made and entered into at St. Helens Oregon, as of _____, 2022, by and between the CITY OF ST. HELENS, a municipal corporation of the State of Oregon, acting by and through its CITY COUNCIL, hereinafter called "Seller," and _____ hereinafter called "Buyer",

W I T N E S S E T H:

WHEREAS, Seller owns certain forest land and timber in the Milton Creek area in Columbia County, Oregon, hereinafter described, and subject to the terms and conditions of this contract,

WHEREAS, Buyer desires to purchase said timber, subject to the terms and conditions hereof,

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties agree:

1. **Sale of Timber**

Seller hereby agrees to sell, and Buyer agrees to buy any dead or live standing trees individually designated by Seller's representative within the timber sale boundaries as marked on the ground by roads, ownership boundaries, or flagged lines. The approximate location of the sale boundaries and salvage tree locations are shown on the attached maps marked Exhibits "A" and "A1" and "A2" (the "Sale Area"). These maps are hereby made a part of this timber sale contract (the "Contract").

Seller and Buyer agree that the designation of trees to be cut will be governed by the following criteria:

- a. All the presently merchantable timber, including any dead standing trees or snags and presently down trees within the exterior boundaries of the clearcut area as shown on the map marked Exhibits "A" and "A1" and "A2" attached hereto and marked on the ground with red paint and/or pink flagging.
- b. Any dead or live standing or down tree individually designated by Seller's representative outside the area to be clearcut (See Exhibits "A", "A1", and "A2").
- c. Seller reserves the right to stop the cutting of designated trees and to either postpone cutting for more favorable conditions or to remove the designation of those trees when, in the opinion of Seller's representative, the logging being done is creating conditions which are detrimental to the watershed values of the Sale Area.
- d. Additional trees may be designated for cutting if they become damaged or if, in the opinion of Seller's representative, they meet the marking criteria but were overlooked in the original marking of trees to be cut.
- e. Red painted trees are reserved from cutting except when so designated by the Seller's representative.

All said timber is within the boundaries of the following described lands situated in Columbia County, Oregon to wit:

The sale area includes all or portions of the following:

Township 5 North – Range 2 West
Portion of Section-33

situated in Columbia County, Oregon.

The term "merchantable timber" includes any tree that at the time of logging the area in which it is situated contains one or more merchantable logs. 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 (herein called "Official Rules") of the Northwest Log Rules Advisory Group effective as of November 1, 2014, as amended to the date of this Contract. In the case of the Number-4 Sawmill logs, no log that contains less than 20 board feet, net scale, will be considered merchantable. Any log with at least 20 board feet net scale with a minimum scaling diameter of 5-inches is considered merchantable. The Buyer will make a special request to the Scaling Bureau to special scale logs with 20 board feet or more net scale and a 5-inch minimum-scaling diameter.

Buyer may remove any log of any species that is not a merchantable log as herein defined.

2. Prices and Payment

As stumpage for timber cut and removed, Buyer agrees to pay Seller a total amount calculated as follows:

An amount that shall be the total for all logs produced from the timber sold hereunder and removed of each species and grade of logs named below, as multiplied in each instance by the following unit prices:

For logs meeting minimum specifications under the General Scaling and Grading Rules of Official Rules:

	<u>Prices Per M</u> <u>Board Feet</u>	
Douglas-fir	\$ _____	(Net)
Hemlock & Other Conifer	\$300.00	(Net)
Western Redcedar	\$1,000.00	(Net)
Hardwood saw logs	\$275.00	(Net)
Pulp logs	\$ 5.00	(per ton)

For logs that do not meet the minimum specifications under General Scaling and Grading Rules of Official Rules, but which do qualify under Special Scales of Official Rules:

	Adjusted
	<u>Gross Scale</u>
Conifer Utility Logs	\$30.00

Unless otherwise agreed upon in writing by Seller's representative, Buyer shall pay to Seller bi-monthly the amount due, computed at the log prices stated above, for the total quantity of logs theretofore scaled and removed from the Sale Area and for which scale certificates have been issued, but for which payment has not been made by Buyer to Seller.

By December 31, 2022, at least **one half** of the estimated total value of timber to be cut from the Sale Areas must be paid either as a result of logs removed, scaled and paid for or by an advance deposit for logs to be removed before the expiration date of this Contract.

By June 30, 2023 **all** the estimated total value of timber to be cut from the Sale Areas must be paid.

3. **Scaling**

Prior to removal from the Sale Area, Buyer shall mark all logs with a distinctive brand of a character and in a manner mutually agreeable to Buyer and Seller. All logs removed shall be scaled by the Official Rules. Buyer shall promptly make a written request to said Bureau for the Special Scale of logs described as Douglas-fir special cull logs and blocks, wormy cedar, white wood and Douglas-fir utility logs, in accordance with Official Rules of said Bureau and shall also request that all logs qualifying as Number-4 sawmill grade in the General Scaling and Grading Rules of the Official Rules be scaled and reported so as to indicate the volume of logs which meet a minimum net of 20 board feet or more. Scaling shall be performed at such point or points as are determined by Seller. No logs shall be removed therefrom until scaling has been completed. The cost of scaling shall be borne by Buyer.

Buyer shall arrange for and carry out a system of load tickets for reporting each load of logs trucked from the Sale Area. For each truckload removed, there shall be prepared at the point of loading, at least in triplicate, a serially numbered ticket showing for that particular truckload, its destination, the date, the number of logs of each species and the total number of logs. Additional data desired by Buyer may be added. The truck driver shall carry one copy, which shall be subject to examination by Seller, until the logs have been dumped or delivered, and one copy shall be made promptly available to Seller. Seller may at any time, at points agreed upon with Buyer, examine any truckload of logs from the Sale Area to check the branding and to compare the logs on the truck with truckload tickets. All costs of furnishing copies of all individual scale tickets and Bureau Certificates to the Seller's representative will be borne by the Buyer.

Buyer agrees to have the Scaling Bureau make available to the Seller's representative the log-truck-ticket-detail and weekly summary. Buyer will transmit such information to the Seller's representative. Buyer will have the Scaling Bureau furnish directly to the Seller's representative a copy of each scale certificate and detail sheet prepared by the Scaling Bureau showing gross and net scale for each species and grade of logs removed from the Sale Area during the period

reported. All data transmitted by the Scaling Bureau to the Seller’s representative will be at Buyer’s expense.

Logs bucked in lengths 41-feet plus trim and greater will be segment scaled, and diameter inside bark measurements will be obtained at both the small and large ends of each log. The scaling diameters of the lower segment or segments of split scaled logs shall be determined by apportioning the difference between inside bark diameters of the small and large ends.

Buyer will make a written request to the appropriate scaling bureau for a "special request" for log segments over 41-feet plus trim to be scaled under rules and guidelines as described above, and as found in R-6 Supplement No. 6 to FSH 2409.11, September 1978, U.S. Department of Agriculture - Forest Service.

4. **Reserve Deposit**

At the time this Contract is signed by Buyer, Buyer shall deposit with Seller a performance bond from a surety company acceptable to Seller in the amount of \$_____. Buyer shall also deposit with Seller cash (the “Deposit”) and a payment bond from a surety company acceptable to Seller, which, together, shall total the amount of \$_____. The bonds (the “Bonds”) and the Deposit shall assure compliance with applicable laws, rules and regulations and the provisions of this Contract.

Seller shall hold the Bonds and the Deposit until Buyer has, to the satisfaction of the appropriate office of the State of Oregon, complied with the state laws and regulations relating to snag and slash disposal, and has, to the satisfaction of Seller, complied with all provisions of this Contract. Upon such compliance, the Deposit with no interest accrued thereto shall be refunded promptly to Buyer. If Buyer defaults in prompt compliance with snag and slash disposal or with any other Contract provisions, Seller may, without prejudice to other remedies, perform the same and charge the expense to Buyer. Thereupon Seller shall apply the Deposit toward said expense and return any balance to Buyer and/or Seller may exercise its rights under the Bonds and retain the Deposit.

5. **Time**

Time and strict performance hereunder are of the essence of this Contract, and no waiver by Seller or any breach by Buyer shall be construed to operate as a waiver of any subsequent performance by Buyer of their agreements hereunder, nor shall Seller be confined to the remedies herein provided.

Buyer shall comply with the following production schedule:

- i) On or before September 1, 2022: Buyer will have completed all prerequisites to operating (i.e. executed Contract, provide Certificates of Insurance to Seller, and filed a Notification of Operations with the Oregon Forestry Department).
- ii) On or before May 15, 2023: Cutting and yarding crews shall be working on log production.
- iii) On or before September 30, 2023: 100 percent yarding completed, and products delivered.

- iv) Complete the other requirements imposed on Buyer by the terms of this Contract, and which are not otherwise herein provided for, by December 31, 2023.

On December 31, 2023, all rights acquired by Buyer under this Contract, or to the remaining merchantable timber on the Seller's land described in paragraph 1 above, and to go upon the Sale Area to remove said merchantable timber or the logs produced therefrom, or to have any other personal property of the Buyer upon the land of Seller, shall cease and terminate unless extended by Seller in writing.

If Buyer shall be prevented at any time from continuing logging operations and the cutting and removal of said merchantable timber because of strikes, fires whose origin or spread is not contributed to by any act or omission of Buyer, governmental orders, floods, or inclement weather conditions, acts of God or the public enemy, or other causes beyond the reasonable control of Buyer, and if solely because of the suspension of their operations by reason of the above causes, Buyer is unable completely to fulfill their obligations by the date specified above, the date for the termination of log cutting and removal of said merchantable timber and logs produced therefrom shall be extended by a period not to exceed the period of such suspension in a period of the year when logging is practicable.

6. **Logging Practices**

Buyer shall conduct their logging operations on Seller's land in an efficient manner and in accordance with good standard logging practices as the same prevail in the West Coast fir industry, including, but without limiting the scope of the foregoing, the realization of the highest log utilization possible from the timber consistent with good logging practices, and the cutting and removal of the merchantable logs in a clean manner as the cutting and removal proceed.

All trees shall be utilized to as low a diameter in the tops as is practicable, and the log lengths shall be such as to secure the greatest practicable utilization of merchantable materials. Stumps shall be cut as to cause the least practicable waste and cut no higher on the side adjacent to the highest ground than a distance equal to 12-inches above the root collar. When this requirement is impracticable in Seller's judgment, Seller may authorize and accept higher stumps.

Special care shall be taken by Buyer to protect the residual trees and young growth from logging or fire damage. Except in the "clearcut" area and within the boundaries of logging roads, Buyer shall give special attention to avoid felling or damaging any green tree unless the specific approval of Seller has first been obtained.

Failure to observe contract requirements in avoiding damage to the soil, residual trees, and reproduction, and in the utilization of merchantable timber shall make Buyer liable for damages to Seller. In the case of unutilized timber, Seller shall have the right to charge Buyer for any unutilized merchantable timber left on the ground. Such timber shall be marked and "woods scaled" by Seller and the volume by grades and species shall be reported to Buyer and payment therefor shall be made by Buyer within 30 days at the contract rates applicable.

Buyer shall fell as the logging operations progress, 20 unmerchantable trees and snags within the Sale Area as previously marked by the Seller's representative.

7. **Road Construction, Use and Maintenance**

In the use and maintenance of truck roads and tractor trails, and in other phases of the logging operation, all practicable precaution shall be taken by Buyer to minimize damage to the soil and to prevent the creation of conditions conducive to soil erosion. Care shall be taken to avoid interference with the natural flow of streams; measures that are reasonable and practicable shall be taken to prevent the gulying of roads and to repair such damage if it occurs. Bridges and ditches along roads used by Buyer shall be left, at Buyer's expense, at the end of logging on any part of any road, in a condition approved by Seller. At the completion of logging, roads used by Buyer will be left in a maintenance standard equal to or better than that existing at the sale date.

In case of damage from any cause, the repair or replacement of any part of the roads constructed in the Sale Area, including culverts and bridges, shall be the responsibility of Buyer and at Buyer's expense during the period this Contract is in effect. Buyer may use all of Seller's existing roads and may construct and use additional roads to the extent reasonably necessary for removal of the timber purchased by Buyer at locations and to specifications approved in writing by Seller's representative prior to construction. Seller reserves the right for it and others claiming under it to cross the Sale Area and to use any roads thereon at any time for any purpose so long as such crossing and use do not unreasonably interfere with Buyer's logging operations. Seller's existing roads must be kept free of obstructions and in passable condition at all times.

Buyer shall have the nonexclusive right to use any roads which Seller may own or over which Seller may have the power to grant Buyer a right to use, extending from the Sale Area to public roads for the removal of timber under this Contract.

The Buyer's right to use Seller's roads may be temporarily limited or stopped by Seller during periods when weather, road or use conditions are such, in Seller's judgment, as to make the use thereof by Buyer hazardous or detrimental to Seller's watershed.

Buyer specifically recognizes that third parties are or may be using roads on Seller's lands and, specifically, agrees to cooperate with Seller and such third parties in the use of and travel on such roads to the end that traffic congestion, overuse, and hazard are minimized.

Buyer agrees to bear or pay Buyer's prorata share of the cost of maintenance of roads used by Buyer for the removal of timber under the terms of this Contract. Seller reserves the right to determine whether the maintenance of such roads shall be performed by Buyer or by a third party or parties. If performed by a third party or parties, Buyer promptly, upon being notified of their prorata share of the cost of maintenance, shall pay such share as directed by Seller. Such prorata share shall be determined by the proportionate volume of forest products hauled over the road and the miles of road used by the respective users.

Prospective Buyers should be aware that roads in the Watershed are non-public roads that are, at times, only as wide as one lane. Dirt roads may not be used during wet weather periods. The City of St. Helens disclaims any liabilities for damages or injuries arising from or in any way associated with the use of said roads.

Buyer will be required to perform road maintenance as provided in the attached "Schedule A - Road Maintenance". Any road, which Buyer may elect to construct, must be to standard and on locations approved in writing by Seller's representative before construction.

Buyer will be responsible for all road use, road maintenance, road rock royalty or any other fees applicable to roads and hauling from either public or private agencies or landowners.

8. **Employment of Contractor**

Buyer may employ a contractor, subcontractor and agents to conduct said logging operations and activities incidental thereto, provided that, if at any time in the course of the operation the contractor, subcontractor and/or agent fails to meet the contract requirements of this Contract relating to any phase of the logging operation, Buyer shall, upon 10-day written notice from Seller, remove such contractor, subcontractor and/or agent and continue operations itself or with another contractor, subcontractor and/or agent satisfactory to Seller. If Buyer employs a contractor, subcontractor and/or agent, Buyer shall be fully responsible to Seller for all the activities and actions of Buyer’s contractors, subcontractors, and agents. Pursuant to ORS 279B.235, no person shall be employed to perform work under this Contract for more than ten hours in any one day or forty hours in any one week, except in cases of necessity, emergency or where public policy absolutely requires it. Buyer shall pay the employee at least time and a half pay for all time in excess of eight hours a day or for work performed on Saturday and on any legal holiday specified in ORS 279A.020. This section will not apply to Buyer’s work under this Contract if Buyer is currently a party to a collective bargaining agreement in effect with any labor organization, as provided in ORS 279B.235. Buyer shall give notice in accordance with ORS 279B.235 of the number of hours per day and days per week that the employees may be required to work.

9. **Slash Disposal**

The terms "slash" or "logging debris" as used in this Contract mean all refuse resulting from logging operations or from construction of roads or other improvements.

Buyer will be required to perform harvest-related projects as provided in the attached "Schedule B – Harvest-Related Projects".

Slash and other logging debris shall be removed from roads and streams in all areas before the end of the Contract term.

Buyer shall dispose of slash in accordance with rules and regulations of the State of Oregon and at the time agreeable to the Seller. Buyer will be responsible for all slash hazard abatement costs.

Where necessary, in the judgment of Seller or of the appropriate state fire protection officer, for the control of slash fires or the protection of any areas on or adjacent to the land described in paragraph 1 hereof, fire lines acceptable to Seller or to said state office shall be constructed by Buyer.

If, because of weather conditions or because of instructions by the State Forester, Buyer is unable to dispose of the slash within the terms of this Contract, Buyer shall be entitled to a reasonable extension of time to dispose of such slash.

With respect to all areas where Buyer has the obligation to dispose of slash, Buyer shall obtain a release from the appropriate authorities and deliver such release or releases to Seller.

10. Fire Protection

Buyer shall conduct their logging operations upon Seller's lands in compliance with all laws and regulations of the State of Oregon and of the United States, and of any agency or enforcement officer of the County of Columbia, or of the State of Oregon, or of the United States. This includes suitable fire planning and securing of adequate equipment to suppress promptly any fire that may occur on or dangerously near the land herein described.

During the time that this Contract remains in effect, Buyer shall independently make every reasonable effort to prevent and suppress forest fires on the land described in paragraph 1 hereof and in its vicinity, and shall require their employees, contractors, and employees of contractors to do likewise. Unless otherwise required hereby or prevented by circumstances over which Buyer has no control, Buyer shall place their equipment, employees, contractors, and employees of contractors at the disposal of any authorized forest officer for the purpose of fighting forest fires on or near Seller's lands.

Buyer shall be responsible for any claim, expense, liability or claim of liability resulting from any default by Buyer in performance of their obligations under paragraphs 10 and 11 hereof whether such claim, expense, liability or claim of liability arises before or after completion of Buyer's operations or expiration of the term of this Contract.

Buyer shall hold harmless Seller from all liability to governmental authority or to public or private parties arising out of Buyer's violation of law, or fire resulting from Buyer's operations hereunder, or fire spreading from Seller's lands described in paragraph 1 hereof prior to official state release of the "operating areas" status of Seller's lands; and Buyer agrees to protect and indemnify Seller against all loss of or damage to any properties, real and personal, of Seller or others in, or in the vicinity of Seller's lands arising under the conditions stated above in this sentence. Buyer's obligation to indemnify and hold the Seller harmless shall not extend to liability or loss arising on or out of areas on which slash disposal is not required under this agreement unless the liability or loss arises directly or indirectly out of Buyer's operations.

11. Risk of Loss

Risk of loss by fire or other casualty of all merchantable timber sold hereunder shall be born by Seller, so that, if any merchantable timber is so damaged by fire or other casualty, not due to Buyer's operations, as not to be merchantable, Buyer shall not be under any obligation to remove or pay for it; provided, however, that Seller shall not be under any obligation to Buyer by reason of the fact that such merchantable timber has been lost to Buyer.

Risk of loss by fire or other casualty of all said merchantable timber already felled or felled and bucked or windfalls that have been bucked at the time of such fire or other casualty shall be upon Buyer, so that even though such felled or felled and bucked timber or bucked windfalls may be so damaged as not to be merchantable or so damaged as to have been reduced in value, Buyer shall pay Seller therefor as though the same had not been damaged. Promptly after any such fire or other casualty, Seller shall determine the volume by species and grades of such damaged felled or felled and bucked timber and bucked windfalls as though not damaged and notify Buyer thereof. Buyer shall pay therefor, at the contract rates applicable, on or before the 10th day of the month next following the receipt of such notice.

12. **Responsibility, Indemnity, and Insurance**

Buyer and its subcontractors (collectively in this article 13 referred to as "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 agrees that it has no rights to indemnity pursuant to ORS §30.285 and ORS §30.287. Buyer shall indemnify Seller and hold Seller harmless from and against any and all loss, expense, attorney fees both at trial and appeal, damage, claims, demands, 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 persons) arising directly or indirectly out of or in connection with the performance by Buyer, its contractors, subcontractors and agents, of any of their obligations hereunder or any operations or activities of Buyer, its contractors, subcontractors and agents hereunder, together with Seller's attorney fees, whether or not suit or action is filed, and if suit or action is filed, at trial and any appeal therefrom.

Without limiting the generality of the foregoing, Buyer shall always at their cost and expense keep in force and effect while this Contract is in effect with insurance companies and in form satisfactory to Seller as follows:

- a. Commercial General Liability, including Bodily Injury and Property Damage Insurance in form ISO CG 00 01 or equivalent, and Comprehensive Automobile Bodily Injury and Property Damage Liability Insurance, each on an occurrence basis and that liability insurance being primary and CITY OF ST HELENS' insurance being secondary and noncontributory, fully insuring Buyer against liability imposed by law or assumed hereunder for injury to or death of any person or persons (including employees of Seller) or for loss of or damage to property or loss of use thereof (including property of Seller) with minimum limits as follows:

Property Damage for premises and operations, Personal Injury and Product Liability; property damage coverage shall include Broad Form Logger's Property Damage:

Each Person	*\$782,600
Each Occurrence	*\$1,565,100
Annual Aggregate	** \$3,130,200

Comprehensive Automobile Liability, Bodily Injury, and Property Damage:

Combined Single Limit	*\$1,565,100
Uninsured/Underinsured Motorist	*\$1,565,100

*Minimum limits as set forth above will adjust annually on July 1 and are no lower than the amount set forth herein, or the applicable amount stated as the tort liability limit for local public bodies as described in ORS 30.272. **Aggregate minimum shall likewise adjust to be twice the amount of the occurrence minimum. A base minimum coverage of at least \$1,000,000 together with excess coverage over the underlying base liability policy (ies) (an umbrella policy) may be used to meet the minimum limits.

- b. Worker's compensation insurance in accordance with the laws of the State of Oregon.

Buyer shall include CITY OF ST HELENS as an additional insured on the foregoing policies of commercial general liability insurance and automobile liability insurance and with regard to both also furnish CITY OF ST HELENS a copy of policy endorsements(s) showing CITY OF ST HELENS as an additional insured and containing an agreement that the insurance company will not cancel the policy without first giving CITY OF ST HELENS 30-days advance written notice of such cancellation and provide a certificate from each insurance company which has issued any such policy to Buyer stating that such insurance policy is in effect.

Pursuant to ORS 279B.230, Buyer shall make payment due to any person, co-partnership, association or corporation furnishing medical, surgical, and hospital care or other needed care and attention, incident to sickness or injury, to the employees of Buyer for all such sums which the Buyer has agreed to pay for such services and all moneys and sums which the Buyer has collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

13. **Title to Timber**

Title to the timber herein sold shall remain with Seller until payment in full therefor has been made.

14. **Discharge of Liens and Claims**

Buyer agrees to comply with obligations of a contractor under ORS 279B.220 and promptly to discharge and to protect Seller and Seller's lands and property and all timber and other forest products taken therefrom from any and all liens, claims, and liabilities whatsoever based upon, arising out of, or resulting from the logging operations mentioned herein, including (but not limited to) mechanics', laborers', and materialmen's liens, and any claims for loss, damage, or personal injuries of their employees or others, any claims for trespass upon any other property and any claims for violation of laws relating to worker's compensation, unemployment compensation, and the like. Buyer shall pay to the Department of Revenue all sums withheld from employees under ORS 316.167. If Buyer fails, neglects or refuses to make prompt payment of any claim for labor, material, or services furnished to the Buyer or a contractor by any person in connection with the sale as such claim becomes due, the proper officer(s) representing the Seller may pay the claim and charge the amount of the payment against funds due or to become due Buyer under this Contract. Payment of claims in this manner shall not relieve the Buyer or the Buyer's surety from obligation with respect to any unpaid claims.

Buyer agrees to promptly pay (a) all timber privilege taxes on the timber covered hereunder, including, but not limited to, the Forest Products Harvest Tax, (b) any property taxes imposed on the logs produced from the timber covered hereunder, and (c) provide proof to Seller that payment of the taxes set forth in (a) and (b) hereof has been made.

15. **Warranty and Representations**

Buyer represents that it has inspected the timber included in this Contract, is satisfied therewith, and enters into this Contract upon their own knowledge and information and not upon nor as a result of any inducement or representation of Seller, or any representative of Seller. Buyer shall not discriminate against disadvantaged minority, women or emerging small business enterprises, or a business enterprise that is owned or controlled by or that employs a disabled veteran, in the awarding of subcontracts, as required by ORS 279A.110.

Seller warrants that it is the owner of timber sold hereunder and has the right to sell it free and clear of all encumbrances that would substantially interfere with the rights of Buyer, and Seller will defend the title to and the right to remove the timber against the claims of all persons. Notwithstanding the foregoing, the parties agree that, should the harvest of the timber sold hereunder be impeded or prevented due to Federal and/or State laws and rules and regulations pursuant thereto regarding environmental matters and/or threatened and endangered species, Seller has the exclusive right to either eliminate from this Contract such timber or substitute other timber of substantially equal quality and volume.

16. **Default**

Time is of the essence in this Contract, and it is agreed that any of the following shall constitute an event of default by Buyer:

- a. Failure by Buyer to make any payment hereunder when due and payable.
- b. Failure by Buyer to keep and perform any other agreement, covenant, or condition hereunder, if such failure shall continue for a period of 10 days after written notice thereof from Seller to Buyer.
- c. The insolvency of Buyer either in the equity or the bankruptcy sense, or the making by Buyer of an assignment for the benefit of creditors, the appointment of a receiver of any of Buyer's property, or the institution of any proceedings of any kind whatsoever under any state or federal insolvency or bankruptcy law by or against Buyer unless terminated within 15 days, against any property of Buyer or against any interest of Buyer in timber cutting rights or any property or equipment used in connection with any logging or loading operations and/or logs harvested hereunder, or the assignment or attempted 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 to or by a trustee in bankruptcy or to or by any receiver of Buyer.

In any one or more of said events of default, Seller shall have, in addition to and not in substitution for any other remedy available to it at law or in equity or under the provisions hereof, the right to suspend Buyer's operation forthwith until such default is cured, or the right to terminate this Contract by notice in writing by Buyer and thereupon to take immediate possession of all lands on which logging operations are being performed hereunder, and all logs and down timber thereon, and to remove Buyer, their contractors, agents, servants, employees, and representatives, and their equipment (placing the same in storage if desired, for the account of Buyer) from Seller's lands.

17. **Other Provisions**

Cable yarding (preferably with a “sky-car” type carriage) is required on any slope greater than 40 percent. Where soil conditions and slope of the terrain permit, shovel logging will be permitted.

Logging of the Sale Area must be in accordance with plans prepared by the Buyer and subject to the written approval of the Seller or Seller's representative, and must be delivered to the Seller or Seller's representative not less than seven days prior to commencement of operation on the area covered by the plan. Seller's representative will inspect the plan and may require such modification as is reasonable and is required to protect the interests of Seller. Operations will not

commence until written approval is received from Seller or Seller's representative. Every employee of the logging contractor who works "on the ground" will read the logging plan. A copy of this logging plan will be kept with the loader operator.

The plan will include the type of logging equipment, landing areas, approximate boundaries of areas to be yarded to each landing, location of primary skid roads leading to those landings, and an approximate schedule of logging operations. Operations in sensitive areas, such as the removal of trees adjacent to live streams must be given specific attention in the logging plan.

Buyer is required to obtain a "Notification of Operations Permit" from the Oregon Department of Forestry. Buyer is responsible for any written plans or other actions required by the Oregon Department of Forestry. A copy of the notification and written plans will be given to the Seller's representative. One end of all log loads shall be painted with orange paint.

Use of tractors in yarding will be restricted to those areas in which their use will not be conducive to soil erosion. If the Buyer elects to haul logs from the Seller's lands during weather when traffic on roads in the municipal watershed area will create a mud surface condition on the road, sufficient road improvement, at Buyer's expense, must be done to assure that such mud will not flow or be washed into any stream which will lead it to Smith Creek or Milton Creek.

Buyer will avoid using tractor-logging machinery within wet areas and drainages. No trees shall be felled or yarded across intermittent or permanent water drainages. Clean out of all woody and vegetative debris put into creeks may be required.

Specific attention is called to the sixth paragraph of part 7 of this Contract that states:

"Buyer specifically recognizes that third parties are or may be using roads on Seller's lands and specifically agrees to cooperate with Seller and such third parties in the use of and travel on such roads to the end that traffic congestion, overuse and hazard are minimized."

All vegetation within the clearcut Sale Area taller than ten feet in height will be cut at the conclusion of harvest operations. Red alder saplings growing along roadside boundaries within the Sale Area will be cut and deposited away from road cut or road fill banks.

Prior to hauling, one end of all log loads loaded on the truck shall be painted with orange paint. Buyer will remove all pulpwood (logs 3" in scaling diameter and larger up to merchantable size) and pulpwood chunks greater than 3-feet in length generated at landing sites.

The Salmonberry gate must remain locked at all times. Log truck drivers must unlock, open, shut, and lock gate each time they enter and exit.

Project Costs found in Schedules "A" and "B" are estimates by category. The Total Cost is a fixed amount that the Buyer shall expend pursuant to this Contract. Buyer shall immediately after completion of the project work required by Schedules "A" and "B", provide Seller with such proof thereof as is reasonably satisfactory to Seller. Seller has the right to reallocate, add or delete project work to ensure the Total Cost is achieved but not exceeded.

Buyer will be responsible for the return of all keys issued to the Buyer or their contractors. In the event that any issued key cannot be accounted for, the City of St Helens will retain \$500 of the initial deposit as damages toward the purchase of a lock and key series.

18. **Exportability**

The City of St. Helens is a municipal corporation of the State of Oregon and as such is a political sub-division of the State of Oregon. The Forest Resources Conservation and Shortage Relief Act of 1990 prohibits the export of unprocessed timber from public lands in Oregon and other western states. This is a sale of public timber, which may not be exported. Buyer covenants and agrees that it will not "export" the timber purchased pursuant to this Contract or "substitute" other timber therefore as the terms are defined in Federal and State laws and the rules and regulations adopted pursuant thereto and further that Buyer will comply with Federal and State laws and rules and regulations adopted pursuant thereto and Seller's Rules regarding the export of timber, all of which prohibit export of the timber hereby purchased.

19. **Compliance With All Government Laws and Regulations**

Buyer shall comply with all federal, state, and local laws, codes, regulations, and ordinances, including but not limited to all applicable provisions of the Oregon Forest Practices Act and the Oregon Public Contracting Laws. Failure to comply with such laws, codes, regulations, and ordinances shall constitute a breach of this Contract. Damages or costs resulting from such noncompliance shall be the responsibility of Buyer.

20. **Attorney Fees**

In case suit or action is instituted to enforce any of the provisions of this Contract, the losing party agrees to pay such sum as the trial court may adjudge reasonable as attorney's fees to be allowed the prevailing party in said suit or action, and if an appeal is taken from any judgment or decree of such trial court, the losing party further promises to pay such sum as the appellate court shall adjudge reasonable as the prevailing party's attorney's fees on such appeal.

21. **Notices**

Any notice required or permitted under this Contract shall be given in writing by registered or certified mail addressed as follows:

To Seller: City of St. Helens
Attn: City Administrator
Post Office Box 278
St. Helens, Oregon 97051

To Buyer:

or such other address as either may specify by notice in writing to the other party. Any such notice shall be effective when actually delivered or when deposited in the mail, registered or certified, addressed to the parties' addresses as set forth above.

22. **Entire Agreement and Amendment**

This Contract represents the entire agreement of the Parties with respect to the subject matter hereof and supersedes and replaces all prior and contemporaneous oral and written agreements with respect to such subject matter. No amendment, modification or variation of the terms and conditions of this Contract shall be valid unless it is in writing and signed by all parties hereto.

23. **Governing Law**

The parties acknowledge that this Contract has been negotiated and entered into in the State of Oregon. The parties expressly agree that this Contract shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of Oregon. Venue for any action brought pursuant to the contract shall lie in the Columbia County Circuit Court for the State of Oregon.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the date first above written.

CITY OF ST. HELENS
Acting by and through its
City Council

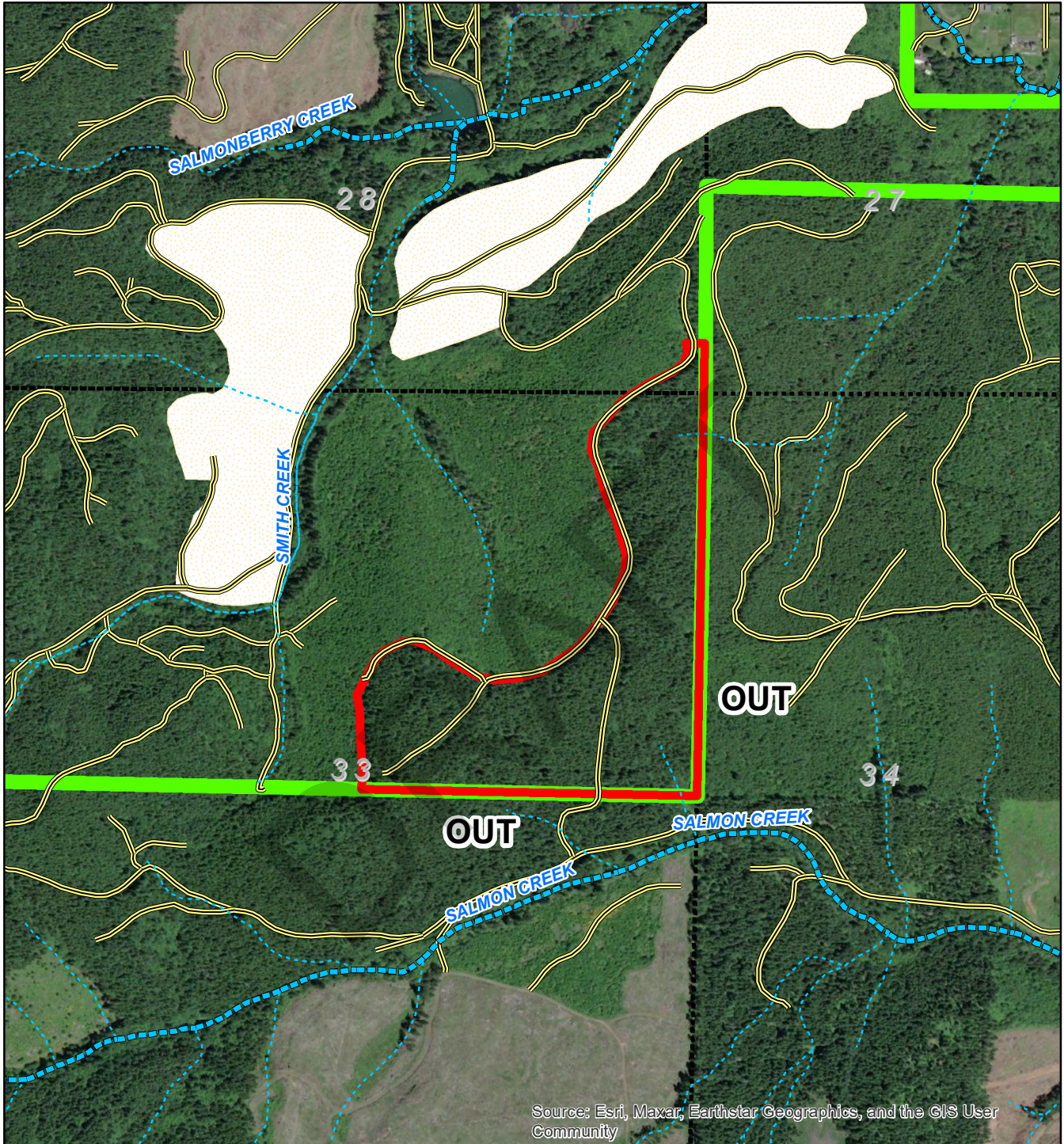
Mayor & Ex officio Member
of the City Council

City Administrator

Buyer

Exhibit A

2022 City of St Helens Timber Sale - 'Salmon' 69-acres)



Township 5 North - Range 2 West

- 'Salmon'
- 2021 Timber Sale
- St Helens Ownership
- Sections
- Roads
- Fish Stream
- Nonfish Stream
- Unknown Stream



1 inch = 1,000 feet

**MASON,
BRUCE &
GIRARD**

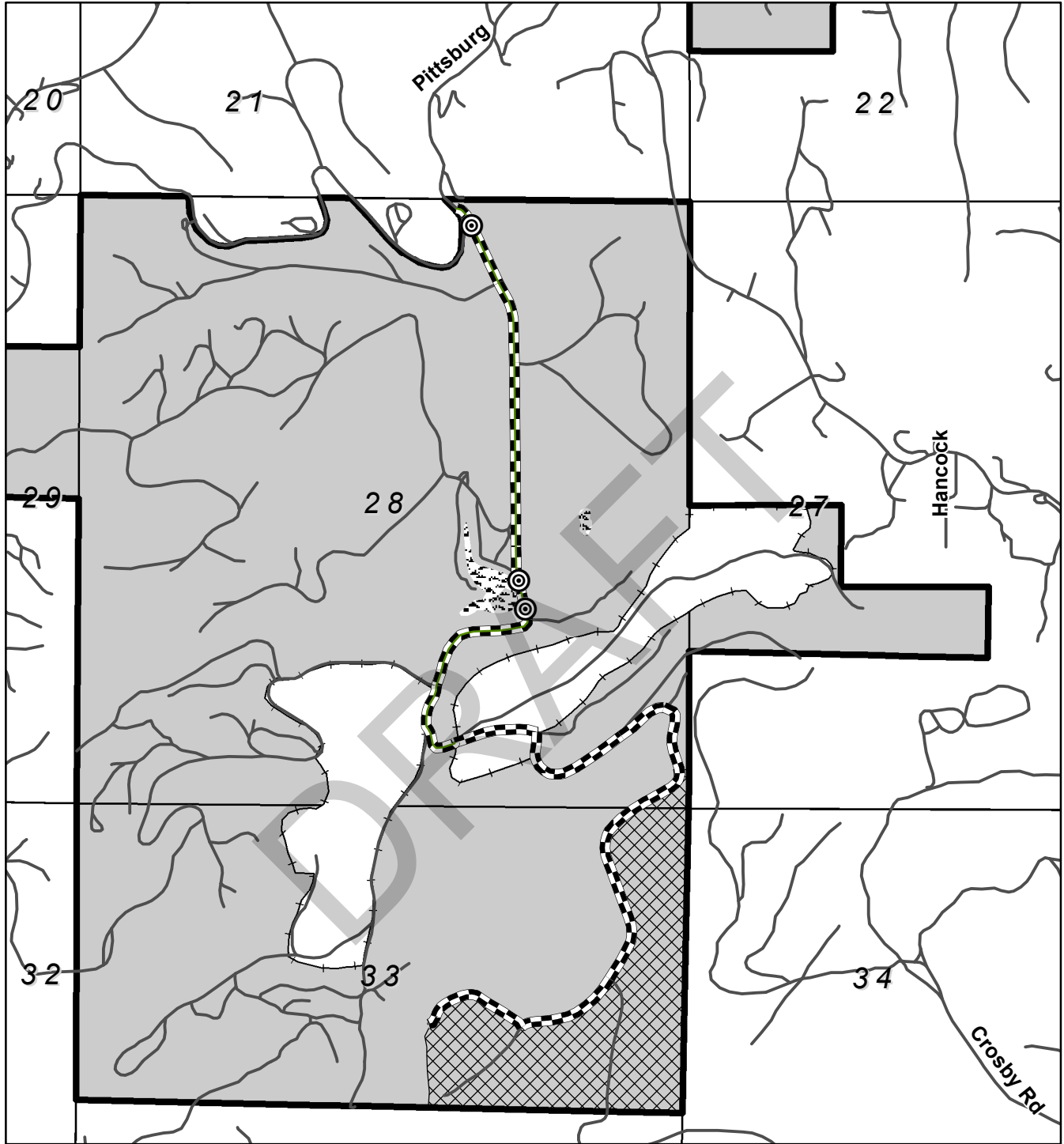










This product is for informational purposes only and may not be suitable for legal, engineering, or surveying purposes. Information is provided with the understanding that conclusions drawn are the responsibility of the user.

Projection: NAD83, State Plane Oregon North

Exhibit A1

2022 City of St Helens Timber Sale - 'Salmon' (69-acres)



-  'Salmon'
-  2021 Timber Sale
-  St Helens Ownership
-  Sections
-  Reservoir
-  Roads
-  Haul Route
-  Gates

Township 5 North - Range 2 West



1 inch = 1,320 feet

**MASON,
BRUCE &
GIRARD**

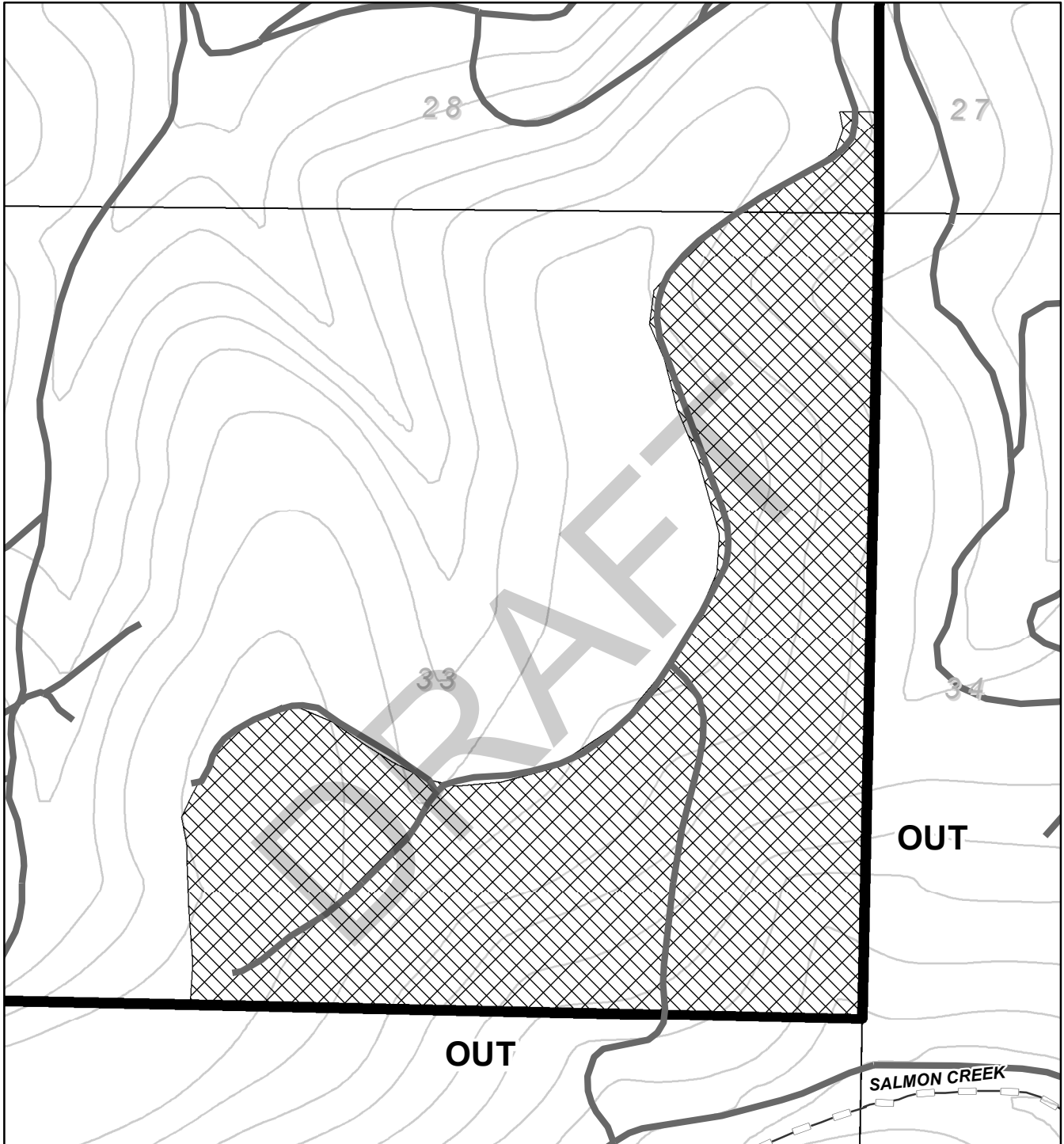


This product is for informational purposes only and may not be suitable for legal, engineering, or surveying purposes. Information is provided with the understanding that conclusions drawn are the responsibility of the user.







Projection: NAD83, State Plane Oregon North

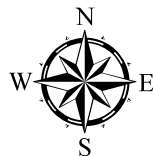
Exhibit A2

2022 City of St Helens Timber Sale - 'Salmon' (69-acres)



Township 5 North - Range 2 West

-  'Salmon' Sale
-  St Helens Ownership
-  Sections
-  Roads
-  Fish Streams
-  Contours (40ft)



**MASON,
BRUCE &
GIRARD**



This product is for informational purposes only and may not be suitable for legal, engineering, or surveying purposes. Information is provided with the understanding that conclusions drawn are the responsibility of the user.

1 inch = 500 feet

Projection: NAD83, State Plane Oregon North

SCHEDULE A
ROAD MAINTENANCE

‘SALMON’ TIMBER SALE

(See Sale Map -- Exhibit "A" and "A1" and "A2")

ROAD MAINTENANCE PROJECT

Buyer will be responsible for brushing, grading, ditch pulling, and/or out-sloping designated roads.

Buyer will be responsible for general road improvements such as bank-sloping, road widening, and rebuilding road corners.

Estimated cost: \$20,000

**Estimated Road Maintenance Project Costs
are summarized as follows:**

Road Maintenance Project	<u>\$20,000</u>
Total Cost:	\$ 20,000

Project Costs found in Schedules "A" and "B" are estimates by category. The Total Cost is a fixed amount that the Buyer shall expend pursuant to this Contract. Buyer shall immediately after completion of the project work required by Schedules "A" and "B", provide Seller with such proof thereof as is reasonably satisfactory to Seller. Seller has the right to reallocate, add or delete project work to ensure the Total Cost is achieved but not exceeded.

SCHEDULE B
HARVEST – RELATED PROJECTS

‘SALMON’ TIMBER SALE

(See Sale Map -- Exhibit "A", and "A1", and "A2")

UNIT SLASHING PROJECT

At the completion of harvest operations, Buyer will slash all vegetation taller than six feet within the “clear-cut” units. Target slashing species include vine-maple, red alder, and small conifer whips. If fire hazard were low, the preferable time for this project to begin would be immediately after the conclusion of harvest operations. If fire hazard is medium to high, then the Seller’s representative may postpone this project until there is less fire hazard.

Estimated cost \$5,000

SHOVEL SLASH-PILING PROJECT

Throughout the units, Buyer will pile slash into burnable piles. Piles must be constructed in haystack form. An effort must be made to pile slash on steeper slopes.

Logs, chunks, and large-sized pieces suitable for firewood will be decked separately from burnable slash piles. If enough quantities of wood chunks and pulpwood material exist, Buyer is required to load material on chunk trucks and deliver them to designated pulpwood markets.

Estimated cost \$10,000

PRE-COMMERCIAL THINNING PROJECT

In plantations so designated by the Seller’s representative, Buyer will thin conifer saplings to a 13-foot-by-13-foot spacing. Conifer trees thinned will be those trees that are intermediate, suppressed, or root-rot infested saplings. Residual trees will be vigorous dominant conifers, which are future crop trees.

If red alder trees are over-topping conifers, they must be “slashed”. If only red alder occurs in a micro site area, thin the red alder to a 12-foot-by-12-foot spacing.

Any trees severed near mainline roads must be removed from the road and ditch surface.

Estimated cost \$10,000

Estimated Harvest Related Project Costs
are summarized as follows:

Unit Slashing Project	\$ 5,000
Shovel Slash Piling Project	\$10,000
Pre-Commercial Thinning Project	<u>\$10,000</u>
Total Cost:	\$25,000

Project Costs found in Schedules "A" and "B" are estimates by category. The Total Cost is a fixed amount that the Buyer shall expend pursuant to this Contract. Buyer shall immediately after completion of the project work required by Schedules "A" and "B", provide Seller with such proof thereof as is reasonably satisfactory to Seller. Seller has the right to reallocate, add or delete project work to ensure the Total Cost is achieved but not exceeded.

DRAFT