

Mail To: Carol Callaway

Ater Wynne LLP

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Portland, Or 97201

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Vol M99 Page 15754

SUBORDINATION AND NON-DISTURBANCE AGREEMENT

THIS SUBORDINATION AND NON-DISTURBANCE AGREEMENT (the "Agreement"), dated as of this 1st day of April, 1999, by and among **THE CITY OF KLAMATH FALLS, OREGON**, an Oregon municipal corporation, in its capacity as owner of the Klamath Cogeneration Project ("Lessee"), **COLLINS PRODUCTS, LLC**, an Oregon limited liability company ("Lessor"), and **U.S. BANK NATIONAL ASSOCIATION**, formerly known as United States National Bank of Oregon ("Lender").

RECITALS

WHEREAS, Lender is the beneficiary under a deed of trust made by Lessor dated August 30, 1996, and filed in the Office of Klamath County, in Book M-96, Page 27077 (the "Deed of Trust"); and

WHEREAS, the Deed of Trust relates to that certain property owned by Lessor, located in Section 18, Township 39 South, Range 9 East, and Sections 13 and 24, Township 39 South Range 8 East, all of the W.M., in Klamath County, Oregon; and

WHEREAS, Lessor has granted certain easements and rights of way (the "Easements") to Lessee for facilities ancillary to the operation of the Klamath Cogeneration Project, pursuant to that certain Lease dated as of April 1, 1999 (the "Lease"), over and across portions of the property subject to the Deed of Trust, which Easements are more particularly described and shown on the attached Exhibits A, B, C and D; and

WHEREAS, Lender, Lessor and Lessee have requested of and granted to each other the agreements hereinafter stated and desire to evidence said agreements in writing.

NOW, THEREFORE, for good and valuable consideration paid by each to the other, the receipt and sufficiency of which is hereby acknowledged, Lessor, Lessee and Lender hereby agree as follows:

1. **Subordination**. The Easements are now and shall at all times continue to be subject and subordinate in each and every respect to the lien of and security interest created by the Deed of Trust, and to any and all renewals, extensions, modifications, substitutions or replacements thereof, subject to the terms and conditions of this Agreement.

2. **Nondisturbance**. So long as Lessee is not in default, beyond any applicable cure periods provided in the Lease, in the payment of the rental reserved in the Lease or in the observance or performance of any of the other terms, covenants, or conditions contained in the Lease that would give Lessor the right to terminate the Lease:

(a) Lessee's occupation and use of the Easements shall not be terminated, canceled or in any way disturbed, diminished or interfered with by Lender during the term of the Easements whether or not the Deed of Trust is in default and whether or not Lender acquires

Lessor's interest in Lessor's property by foreclosure or deed in lieu of foreclosure, or otherwise; and

(b) Lender will not join Lessee as a party defendant in any action or proceeding for the purpose of terminating Lessee's interest under the Easements as a result of any default under the Deed of Trust; provided, however, Lender may join Lessee in a foreclosure action if such joinder is required by applicable law for the purpose of foreclosing the Deed of Trust against Lessor, but then only for such purpose and not for the purpose of terminating the Easements.

3. **Representations and Warranties of Lessor.** Lessor represents and warrants to Lessee that the Deed of Trust is the only lien on the Property and that the interest of Lessee under the Lease is not subordinate to any other lien or interest.

4. **Hazardous Substances.** Regardless of whether or not Lender should succeed to the interests of Lessor: (a) Lessee hereby agrees that its covenants in Section 12.3 of the Lease relating to use of Hazardous Substances are intended to benefit Lender and may be enforced by Lender in the event that Lender shall succeed to the interests of Lessor; (b) Lessee agrees to provide Lender with a copy of any notice provided to Lessor under Section 12.4 of the Lease relating to Hazardous Substances; and (c) to the extent permitted by law and subject to the limitations of subparagraph 6.1.5 of the Lease, Lessee hereby agrees to indemnify, defend, and hold harmless Lender (and its directors, officers, members, employees, and agents) from and against any and all claims, damages, demands, losses, fines, penalties, liabilities, actions, lawsuits, and other proceedings, judgments and awards, and costs and expenses, including reasonable attorneys' fees, for environmental response and remediation, bodily injury, and property damage arising directly or indirectly in whole or in part out of the activities of Lessee (or any of its elected officials, officers, employees, or agents), on or in connection with the Easements, excluding only such of the foregoing as result from or are contributed to by the negligence or willful misconduct of Lender or its directors, officers, employees, and agents. This indemnification, defense, hold harmless, and release provision shall apply to the construction, design, operation, demolition, and any removal of improvements from the Easements including the remediation of any Hazardous Substance released by Lessee on the Easements.

5. **Successors and Assigns; Binding Effect.** This Agreement shall be binding upon Lessor and its successors and assigns, shall be binding upon and inure to the benefit of Lessee, its successors, assigns and sublessees, and shall be binding upon and inure to the benefit of Lender and its successors and assigns who acquire title to Lessor's property from or through Lender.

6. **Entire Agreement.** This Agreement contains the whole agreement between the parties hereto as to the Deed of Trust and the priority thereof, herein described, and there are no agreements, written or oral, outside or separate from this Agreement, and all prior negotiations, if any, are merged into this Agreement.

7. **Notices.** Any notices required or permitted hereunder may be given in the manner provided in Article XVII of the Lease. Lessee's addresses for notice purposes are as set forth in

Article XVII of the Lease. Lender's address for notice purposes is as set forth below. All notices shall be effective upon the delivery or attempted delivery to the party's address for notice purposes (subject to any change in such address for notices that a party may make by written notice to the other).

8. **Governing Law.** This Agreement will be governed and construed in accordance with the laws of the state of Oregon.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first shown above.

Lessee:

THE CITY OF KLAMATH FALLS, OREGON

By:

Its:

Thomas R. Keller
City Manager

Lessor:

COLLINS PRODUCTS, LLC

By:

Its:

Jack E. Seibert
Vice President

Lender:

U.S. BANK NATIONAL ASSOCIATION

By:

Its:

Cheryl R. [Signature]
Senior Vice President

Address for notice purposes:

111 S.W. Fifth Avenue, Suite 400

Portland, Oregon 97204

Attn: Sally J. Williams

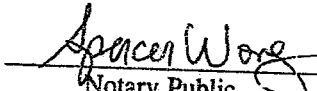
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STATE OF NEW YORK)

SS.:

COUNTY OF NEW YORK)

On this 26th day of April, 1999, before me, a notary public in and for this State and county, personally appeared James R. Keller, to me personally known, who being by me duly sworn did depose and say that he resides at Klamath Falls, Oregon, and that he is the City Manager of the City of Klamath Falls, a municipal corporation organized and existing under the laws of the State of Oregon, and that the instrument was signed and delivered on behalf of the corporation by authority of its City Council; and he acknowledged the execution and delivery of the instrument to be the voluntary act and deed of the corporation.


Notary Public

SPENCER WONG
Notary Public, State of New York
No. 01WO4628425
Qualified in Nassau County
Commission Expires July 31, 2000

EXHIBIT A**Road and Pipeline Right-of-Way (From Highway 97)**

A right-of-way variable in width over and across the Southwest quarter (SW1/4), Southeast quarter (SE1/4), and the Northeast quarter (NE1/4) of Section 18 in Township 39 South, Range 9 East of the Willamette Meridian, in Klamath County, Oregon. Said right-of-way is described with reference to the Oregon Coordinate System, South Zone (NAD83/91), as follows:

Beginning at the northeast corner of Klamath Cogeneration Plant site that bears S.24°28'33"W., 982.35 feet from the Center Quarter Corner of said Section 18; thence N.87°13'39"E., 33.02 feet; thence S.27°27'32"E., 30.20 feet; thence S.25°16'54"E., 46.24 feet; thence S.15°07'32"E., 49.27 feet; thence S.06°00'20"E., 47.35 feet; thence S.00°08'27"E., 49.65 feet; thence S.09°28'58"W., 48.90 feet; thence S.13°04'36"W., 48.97 feet to a point of curvature; thence on a curve to the left concave to the southeast, with a radius of 45.00 feet, an arc distance of 30.86 feet (chord of S.06°34'14"E., 30.26 feet); thence S.26°13'03"E., 46.31 feet; thence S.31°33'02"E., 70.72 feet; thence S.44°54'05"E., 57.16 feet; thence S.60°25'09"E., 61.96 feet; thence S.83°20'12"E., 54.51 feet; thence N.69°36'15"E., 53.48 feet; thence N.49°02'18"E., 35.77 feet; thence N.41°32'29"E., 172.30 feet; thence N.46°20'13"E., 70.30 feet; thence N.55°54'12"E., 73.49 feet; thence N.65°18'10"E., 70.55 feet; thence N.69°47'43"E., 67.39 feet; thence N.50°09'43"E., 63.40 feet; thence N.38°54'06"E., 664.79 feet; thence N.34°53'37"E., 359.69 feet; thence N.35°28'20"E., 133.18 feet; thence N.32°42'27"E., 163.36 feet; thence N.13°56'08"E., 107.96 feet; thence N.08°37'08"E., 84.63 feet; thence N.08°17'24"E., 283.81 feet; thence N.07°10'04"E., 75.93 feet; thence N.07°01'20"E., 50.61 feet; thence N.01°57'42"E., 74.96 feet; thence N.03°55'37"W., 52.49 feet; thence N.10°01'35"W., 42.16 feet; thence N.16°21'36"W., 97.51 feet; thence N.14°37'58"W., 35.71 feet; thence N.02°33'02"E., 50.65 feet; thence N.18°00'27"E., 48.91 feet; thence N.50°17'12"E., 40.18 feet; thence N.63°29'48"E., 46.01 feet to a point that bears N.50°53'26"E., 1643.89 feet from said Center Quarter Corner; thence S.15°27'07"E., 56.04 feet; thence S.63°29'48"W., 28.90 feet; thence S.50°17'12"W., 17.89 feet; thence S.18°00'27"W., 25.53 feet; thence S.02°33'02"W., 34.88 feet; thence S.14°37'58"E., 26.57 feet; thence S.16°21'36"E., 99.73 feet; thence S.10°01'35"E., 48.14 feet; thence S.03°55'37"E., 58.25 feet; thence S.01°57'42"W., 80.22 feet; thence S.07°01'20"W., 53.11 feet; thence S.07°10'04"W., 76.54 feet; thence S.08°17'24"W., 284.51 feet; thence S.08°37'08"W., 87.34 feet; thence S.13°56'08"W., 119.61 feet; thence S.32°42'27"W., 173.78 feet; thence S.35°28'20"W., 134.23 feet; thence S.34°53'37"W., 361.34 feet; thence S.38°54'06"W., 672.14 feet; thence S.50°09'43"W., 78.34 feet; thence S.69°47'43"W., 74.75 feet; thence S.65°18'10"W., 63.88 feet; thence S.55°54'12"W., 64.36 feet; thence S.46°20'13"W., 63.40 feet; thence S.41°32'29"W., 173.60 feet; thence S.49°02'18"W., 49.35 feet; thence S.69°36'15"W., 76.70 feet; thence

N.83°20'12"W., 78.89 feet; thence N.60°25'09"W., 80.60 feet; thence N.44°54'05"W., 71.09 feet; thence N.55°13'48"W., 99.16 feet to the southeast corner of said Cogeneration Plant Site; thence along the east line of said Plant Site as follows: N.16°18'45"E., 32.75 feet; N.20°00'27"E., 44.80 feet; N.14°15'06"E., 30.39 feet; N.12°02'25"E., 16.90 feet; N.13°04'36"E., 44.81 feet; N.09°28'58"E., 45.44 feet; N.00°08'27"W., 45.59 feet; N.06°00'20"W., 43.42 feet; N.15°07'32"W., 44.21 feet; N.25°16'54"W., 43.00 feet; N.27°27'32"W., 43.42 feet to the northeast corner of said plant site and the Point of Beginning.

Containing 4.543 acres more or less.

EXHIBIT B**Access Easement (Railroad Spur Track and Laydown Yard)**

A parcel of land located in the Southeast quarter (SE1/4) and Northeast quarter (NE1/4) of Section 18, in Township 39 South, Range 9 East of the Willamette Meridian, in Klamath County Oregon. Said parcel of land is described with reference to the Oregon Coordinate System, South Zone (NAD83/91), more particularly described as follows:

Beginning at a point that bears S.07°31'42"E., 1233.16 feet from the Center Quarter Corner of said Section 18; thence S.39°48'08"E., 341.18 feet; thence N.44°12'14"E., 201.10 feet; thence N.39°48'08"W., 18.74; thence N.38°39'32"E., 15.65 feet; thence N.38°39'44"E., 76.08 feet; thence N.40°41'59"E., 58.34 feet; thence N.42°34'13"E., 1227.55 feet; thence N.40°26'16"E., 39.18 feet; thence N.35°07'50"E., 37.67 feet; thence N.30°46'41"E., 33.89 feet; thence N.29°29'38"E., 42.22 feet; thence N.28°28'01"E., 59.27 feet; thence N.27°01'47"E., 80.25 feet; thence N.24°52'25"E., 121.52 feet; thence N.65°07'35"W., 25.00 feet; thence S.24°52'25"W., 121.05 feet to a point that bears S.82°46'16"E., 230.40 feet from the East Center 1/16 Corner of said Section 18; thence S.27°01'47"W., 79.46 feet; thence S.28°28'01"W., 58.73 feet; thence S.29°29'38"W., 41.71 feet; thence S.30°46'41"W., 32.66 feet; thence S.35°07'50"W., 35.56 feet; thence S.40°26'16"W., 37.55 feet; thence S.42°34'13"W., 1227.49 feet; thence S.40°41'59"W., 59.19 feet; thence S.38°39'44"W., 76.53 feet; thence S.38°39'32"W., 10.55 feet; thence N.39°48'08"W., 229.86 feet; thence S.50°09'43"W., 24.18 feet; thence S.69°47'43"W., 74.75 feet; thence S.65°18'10"W., 63.88 feet; thence S.55°54'12"W., 43.95 feet to the point of beginning.

Containing 2.443 acres more or less.

EXHIBIT CEASEMENTSA. WATER LINES, WATER SUPPLY AND FIRE PROTECTION:

(i) An easement for the installation, maintenance, repair, replacement and use by Lessee of water lines, whether above or below ground, servicing the Plant with potable water and effluent water used for cooling, processing, boiler feedwater make-up and all other water necessary in the operation and maintenance of the Plant, to be located at such location as Lessor shall designate and describe on a schedule to be attached hereto prior to the Commercial Operation Date, including water from the City of Klamath Falls, Oregon, in its municipal capacity, and water from Collins Well #6.

(ii) Access to the Collins Facility's fire protection system (including underground mains, ground suction tanks and fire hydrants).

B. SANITARY SEWER LINES:

An easement for the installation, maintenance, repair, replacement and use by Lessee of sanitary sewer lines servicing the Plant to be located at such location as Lessor shall designate and describe on a schedule to be attached hereto prior to the Commercial Operation Date.

C. STORM SEWER LINES.

An easement for the installation, maintenance, repair, replacement and use by Lessee of a storm sewer system which will service the Plant to be located at such location as Lessor shall designate and describe on a schedule to be attached hereto prior to the Commercial Operation Date.

D. NATURAL GAS SERVICE:

An easement for the installation, maintenance, repair, replacement and use by Lessee of gas lines, whether above or below ground, and meters providing natural gas service to the Plant to be located at such location as Lessor shall designate and describe on a schedule to be attached hereto prior to the Commercial Operation Date.

E. INGRESS AND EGRESS:

An easement for all purposes of ingress and egress for motor vehicle and pedestrian traffic over, upon and across the existing road connecting to State Highway 97 for primary access, and to Weyerhaeuser Road for backup secondary access, and for access to the

railroad spur on the Collin's Facility Site. Lessor may impose such reasonable restrictions on, and rules and regulations for, the use of such access as Lessor may deem necessary for the security of its operations at the Collins Facility.

F. SIGNAGE:

An easement for purposes of erecting a sign or signs displaying the names or symbols of Lessee, its operators, tenants and contractors, which signs shall be approved as to size and form, and located, installed and maintained in the manner and at the locations, designated by Lessor.

G. STEAM AND CONDENSATE LINES:

An easement for the installation, maintenance, repair, replacement and use of steam and condensate lines, whether above, below or upon ground to be located at such location as Lessor shall designate and describe on a schedule to be attached hereto prior to the Commercial Operation Date, together with access rights thereto, as may be necessary or desirable for the proper operation of the Plant and the transmission of steam and condensate between the Plant and the Collins Facility.

H. TELEPHONE LINES:

An easement for the installation, maintenance, repair, replacement and use by the Lessee of the telephone and communications lines and service to be located on such location as Lessor shall designate and describe on a schedule to be attached hereto prior to the Commercial Operation Date, together with such access rights as may be reasonable and necessary therefor.

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BOILER
HOUSE

The Easements described in Exhibit C of this Document are located on lands of Collins Products LLC in Section 18, Township 39 South, Range 9 East, W.M. and Sections 13 and 24, Township 39 East, Range 8 East, W.M., Klamath County, Oregon.

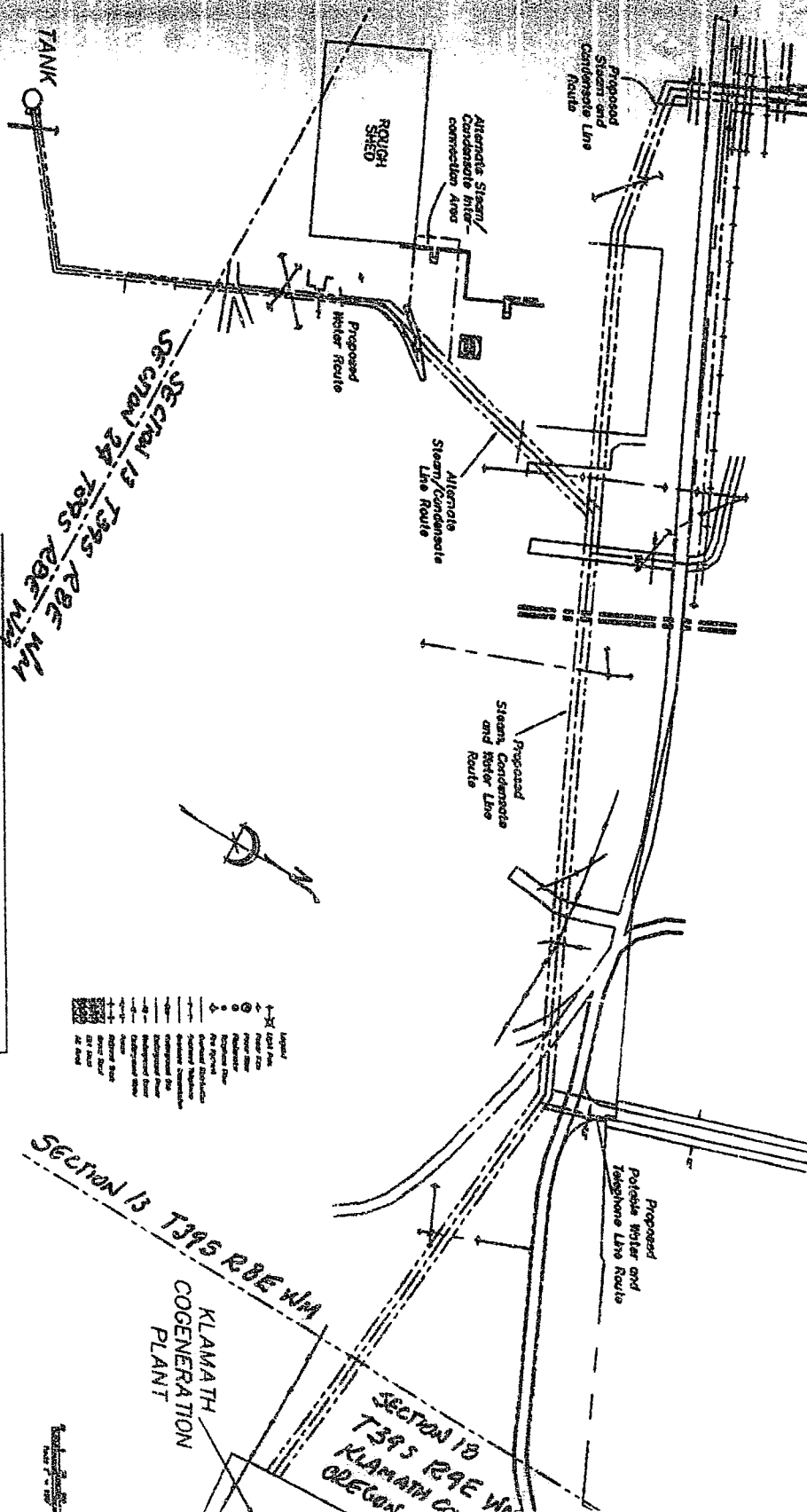


EXHIBIT D - Collins Service Connections

And Pipeline Routes

STATE OF OREGON : COUNTY OF KLAMATH: ss.

Filed for record at request of Aspen Title & Escrow the 27th day
of April A.D., 1999 at 3:20 o'clock P.M., and duly recorded in Vol. M99
of Mortgages on Page 15754

FEE

\$55.00

by Linda Smith Linda Smith, County Clerk