

2015-005175

Klamath County, Oregon

05/21/2015 09:56:21 AM

Fee: \$112.00

AFTER RECORDING RETURN TO:

Bank of Oklahoma
Attn: Robert Duncan
201 Robert S. Kerr Ave.
Oklahoma City, OK 73102

INTERCREDITOR AND SUBORDINATION AGREEMENT

This Intercreditor and Subordination Agreement (the "Agreement") is made as of May 1, 2015, by and between Huntington Capital Fund III, L.P., a Delaware limited partnership ("Creditor"), and BOKF, NA dba Bank of Oklahoma (the "Senior Lender").

A. Sky Lakes SNF, LLC a California limited liability company ("Borrower") and the Senior Lender have entered into that certain Loan Agreement dated September 11, 2014 (as amended, modified, renewed, extended or replaced from time to time, the "Senior Loan Agreement") and certain other Loan Documents (as defined in the Senior Loan Agreement) pursuant to which the Senior Lender has loaned the Borrower \$4,600,000.00 (the "Senior Loan") in accordance with the terms and provisions of that certain Promissory Note from Borrower in favor of the Senior Lender dated effective September 11, 2014 in the principal face amount of \$4,600,000 (as amended, modified, renewed, extended or replaced from time to time, the "Senior Note") which is secured by that certain Deed of Trust, Assignment of Rents and Security Agreement dated effective September 11, 2014 and recorded in the land records of Klamath County, Oregon as document no. 2014-009483 (the "Senior DOT") which covers certain real property located in Klamath County, Oregon as more particularly described at Exhibit "A" hereto (the "Property") and is also secured by that certain Assignment of Lessor's Interest in Rents and Leases and recorded in the land records of Klamath County, Oregon as document no. 2014-009484 covering the Property (the "Senior Assignment"). The Senior Loan Agreement, Senior Note, Senior DOT, Senior Assignment and all other agreements executed pursuant to the Senior Loan Agreement, along with all instruments securing the Senior Loan, are the "Senior Loan Documents."

B. The Borrower and Creditor desire to enter into the Subordinated Loan Documents (defined below).

C. Without Senior Lender's consent, the Borrower's entering into the Subordinated Loan Documents and granting the liens and security interests in favor of Creditor as contemplated in the Subordinated Loan Documents would constitute a Default under the Senior Loan Agreement.

D. The Borrower and its members have requested that Senior Lender consent to the loan from the Creditor to the Borrower and the granting of the liens contemplated by the Subordinated Loan Documents. It is a condition precedent to Senior Lender's consent that Creditor executes and delivers this Agreement to Senior Lender and that Borrower execute and deliver to Senior Lender an Amendment to Loan Documents.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Creditor subordinates to Senior Lender the terms of the Subordinated DOT (defined below) and the Subordinated Loan Documents and any and all security interests or liens that Creditor may have, presently or in the future, in the Property, the rents from and leases of the Property and any other collateral, either real or personal, described in any of the Senior Loan Documents, along with the proceeds, replacements, issues, income, profits or awards related to or from any of the foregoing or any policy of insurance covering any of the foregoing (collectively, the "Collateral") to the terms of the Senior DOT, the Senior Assignment and the other Senior Loan Documents and all liens or security interests in the Collateral which are created by any of the Senior DOT, the Senior Assignment or the other Senior Loan Documents. Notwithstanding the respective dates or methods of attachment or perfection of the security interests or liens of Creditor and the security interests or liens of Senior Lender, the security interests and liens of Senior Lender in and to the Collateral shall at all times be senior, superior and prior to the security interests and liens of Creditor in and to the Collateral. Creditor shall not challenge the validity, attachment, perfection or relative priority of the Senior Lender's liens or security interests in the Collateral, whether in a Proceeding (defined below) or otherwise.
2. Subject only to Section 3 of this Agreement, all Subordinated Debt (defined below) and all payments on account of the Subordinated Debt shall be subject, subordinate and junior in right of payment to the prior payment, in full, of the Senior Debt. "Senior Debt" shall be the sum of all of the following:
 - a. The principal balance of Borrower's obligations to the Senior Lender under the Senior Loan Documents; provided, the principal amount of Borrower's obligations under the Senior Loan Agreement shall not exceed \$5,000,000.
 - b. The interest balance of the Senior Note, including interest accrued at a default rate and all interest accruing after the commencement by or against Borrower of any bankruptcy, reorganization or similar proceeding (a "Proceeding").
 - c. All of Senior Lender's costs of collecting or enforcing the Senior Loan Documents, realizing on the Collateral, collecting from any Senior Loan Guarantor (defined below) or taking part in a Proceeding, including attorneys' fees.
 - d. All amounts advanced by the Senior Lender for the purpose of paying real estate taxes, maintenance costs, insurance premiums, receiver's fees or other items reasonably necessary to protect the Collateral from forfeiture, casualty, loss or waste.
3. As long as any Senior Debt remains outstanding and unpaid, Borrower and Senior Loan Guarantor shall not make, directly or indirectly, and Creditor shall not accept or receive any payment on the Subordinated Debt except for a regularly scheduled payment (but no prepayment) of interest under the Subordinated Note (defined below), before the delivery to Creditor of a Blockage Notice (defined below). During a Blockage Period (defined below), Creditor will not (i) demand, accept or receive from Borrower or any Senior Loan Guarantor all or any part of the Subordinated Debt, by way of regularly scheduled payment, prepayment, setoff, lawsuit or otherwise, (ii) exercise any remedy

against or with respect to the Collateral, including without limitation collecting rents (iii) commence, or cause to commence, prosecute or participate in any enforcement, administrative, legal or equitable action against Borrower, the Collateral or any Senior Loan Guarantor, for so long as any portion of the Senior Debt remains outstanding. A "Blockage Period" shall commence on the date on which Senior Lender gives Creditor written notice of a Default (as defined in the Senior Loan Agreement) (a "Blockage Notice") and shall terminate on the earliest to occur of the following events: (i) the cure or waiver by Senior Lender of such Default, (ii) the passage of one hundred twenty(120) days from the date of the Blockage Notice, unless Senior Lender has commenced a judicial proceeding or non-judicial actions (including without limitation acceleration of the Senior Debt or trustee sale of the Property) to collect or to enforce the Senior Debt or foreclose on the Collateral, or a Proceeding by or against Borrower is commenced, in which case the Blockage Period shall be extended during the continuance of such exercise of rights and remedies by Senior Lender or the continuance of any such Proceeding, or (iii) the Senior Debt has been discharged or paid in full and Senior Lender's commitment to lend to Borrower has been terminated. Only upon termination of a Blockage Period, Creditor may exercise any of its rights and remedies and Borrower may make, and Creditor may retain, all payments of the Subordinated Debt permitted under the first sentence of this Section 3, but which could not be made during the Blockage Period, except to the extent that a Default would be caused by the making of such payment. Senior Lender may give a Blockage Notice (i) at any time with respect to a Default caused by a default in payment of principal or interest that constitutes Senior Debt (a "Senior Payment Default"), and (ii) at any time with respect to a Default that is not a Senior Payment Default (a "Senior Nonpayment Default"); provided, however, that the aggregate number of days for Blockage Periods triggered by Senior Nonpayment Defaults may not exceed one hundred and twenty (120) days during any three hundred sixty-five (365) day period. Creditor shall not challenge the Senior Lender's right to prior payment established in Sections 2 and 3 of this Agreement, whether in a Proceeding or otherwise.

4. Creditor shall promptly deliver to Senior Lender in the form received (except for endorsement or assignment by Creditor where required by Senior Lender) for application to the Senior Debt any payment, distribution, security or proceeds received by Creditor, at any time including during a Proceeding, with respect to the Subordinated Debt other than in accordance with this Agreement and such payments, distributions, security or proceeds shall be held in trust by Creditor for the benefit of the Senior Lender pending delivery.

5. Proceeds, Awards and Rents.

- a. The interest of Creditor shall be subject and subordinate to the interest of the Senior Lender in and to the proceeds of all policies of insurance maintained by Borrower (hereinafter, the "Proceeds") covering all or any portion of the Collateral, all awards or other compensation made for any taking, or any conveyance in lieu of taking, of all or any portion of the Collateral (hereinafter, the "Awards"), and all rents, income, issues and profits of all or any portion of the Collateral (hereinafter, the "Rents"). In the event that the Creditor in lieu of the Senior Lender, receives an Proceeds, Awards or Rents at such time as any Senior Debt remains unpaid, the Creditor agrees to hold such Proceeds, Awards and Rents in trust for the benefit of Senior Lender, and upon demand will remit the same to the Senior Lender until payment in full of the Senior Debt.

- b. In the event of any casualty or condemnation with respect to the Collateral, the parties agree that, the Senior Lender shall have the right to adjust, compromise or settle any such loss or condemnation claim with respect to the insurer or condemning authority to the extent authorized in the Senior Loan Documents and to hold or retain such proceeds in accordance with the terms of the Senior Loan Documents. In the event that the Senior Lender shall release, for the purpose of restoration of all or any part of the Collateral, its right, title and interest in any Proceeds and/or Awards, then Creditor shall release for such purpose all right, title and interest, if any, in and to all such Proceeds and Awards. Further, the Senior Lender and the Creditor agree that all Proceeds and/or Awards shall be applied pursuant to the terms and provisions of the Senior Loan Documents.
- 6. In the event of Borrower's insolvency, reorganization or any Proceeding under any bankruptcy or insolvency law or laws relating to the relief of debtors (i) this Agreement shall remain in full force and effect (ii) Senior Lender's claims against Borrower and the estate of Borrower shall be paid in full before any payment is made to Creditor and (iii) Creditor will not object to Senior Lender seeking relief or protection pursuant to 11 U.S.C. §§ 363 or 364 with respect to the use of cash collateral.
- 7. For so long as any of the Senior Debt remains unpaid, Creditor irrevocably appoints Senior Lender as Creditor's attorney in fact, and grants to Senior Lender a power of attorney with full power of substitution, in the name of Creditor or in the name of Senior Lender, for the use and benefit of Senior Lender, without notice to Creditor, to perform at Senior Lender's option the following acts in any Proceeding involving Borrower:
 - a. to file the appropriate claim or claims in respect of the Subordinated Debt on behalf of Creditor if Creditor does not do so prior to 30 days before the expiration of the time to file claims in such Proceeding and if Senior Lender elects, in its sole discretion, to file such claim or claims; and
 - b. to accept or reject any plan of reorganization or arrangement on behalf of Creditor and to otherwise vote Creditor's claims in respect of any Subordinated Debt, if Creditor does not do so prior to 5 days before the expiration of the time to do so, in any manner that Senior Lender deems appropriate for the enforcement of its rights hereunder; provided that Creditor shall not initiate, prosecute or participate in any claim or action in such Proceeding challenging the enforceability, validity, perfection or priority of the Senior Debt, this Agreement, Senior Lender's priority of payment or any liens and security interests securing the Senior Debt.
- 8. No amendment of the documents evidencing or relating to the Subordinated Debt shall directly or indirectly modify the provisions of this Agreement in any manner which might terminate or impair the subordination of the Subordinated Debt or the subordination of the security interest or lien that Creditor may have in any property of Borrower or Senior Lender's right to prior payment. Without limitation, the Subordinated Loan Documents shall not be amended to (i) increase the rate of interest with respect to the Subordinated Debt, (ii) accelerate the payment of the principal or interest or any other portion of the Subordinated Debt or (iii) increase the principal amount of the Subordinated Debt.

9. This Agreement shall remain effective for so long as the Senior Lender has any obligation to make credit extensions to Borrower or Borrower owes any amounts to Senior Lender under the Loan Agreement or otherwise. If, at any time after payment in full of the Senior Debt any payments of the Senior Debt must be disgorged by Senior Lender for any reason (including, without limitation, the bankruptcy of Borrower), this Agreement and the relative rights and priorities set forth herein shall be reinstated as to all such disgorged payments as though such payments had not been made and Creditor shall immediately pay over to Senior Lender all payments received with respect to the Subordinated Debt to the extent that such payments would have been prohibited hereunder.

10. At any time and from time to time, without notice to or consent from Creditor, Senior Lender shall be permitted to take such actions and exercise such remedies with respect to the Senior Debt, the Collateral or any Senior Loan Guarantor as Senior Lender, in its sole discretion, may deem appropriate, including, without limitation, terminating advances to Borrower, making protective advances, increasing the principal amount, extending the time of payment, increasing applicable interest rates, renewing, compromising or otherwise amending the terms of any documents affecting the Senior Debt and any collateral securing the Senior Debt, and enforcing or failing to enforce any rights against Borrower, the Collateral, any Senior Loan Guarantor or any other person. No such action or inaction shall impair or otherwise affect Senior Lender's rights hereunder. In the event the Lender shall elect to selectively and successively enforce its rights under any of the Senior Loan Documents, such action shall not be deemed a waiver or discharge of any other lien, encumbrance or security instrument securing payment of the Senior Debt. The rights and remedies of the Senior Lender provided by the Senior Loan Documents are cumulative and no right or remedy will be exclusive of any other or of any other right or remedy which the Senior Lender might otherwise have by virtue of the occurrence of a Default and the exercise of any right or remedy by the Senior Lender will not impair the Senior Lender's standing to exercise any other right or remedy. Creditor waives any right to require the Senior Lender to marshal liens, assets or collateral. Creditor waives the benefits, if any, of California Civil Code Sections 2809, 2810, 2819, 2845, 2847, 2848, 2849, 2850, 2899 and 3433 and all similar provisions and protections under the statutory, constitutional and decisional law of the states of Oklahoma and Oregon.

11. Creditor will provide Senior Lender notice of any event of default under the Subordinated Loan Documents, along with copies of any demand, notice or summons delivered to the Borrower (simultaneous with such being delivered to Borrower) and shall not take any action to enforce the Subordinated Loan Documents, collect the Subordinated Debt or realize against the Collateral or any guarantor until ten (10) days after providing such notice to Senior Lender. An event of default under the Subordinated Loan Documents shall constitute a Default under the Senior Loan Documents.

12. Selected Definitions:

- a. "Subordinated Loan Documents" means, collectively, (i) the Subordinated Loan Agreement, the Subordinated Note, the Subordinated Security Agreement and the Subordinated DOT, (ii) all other agreements between Borrower and Creditor or among Borrower, Reno Assisted Living, LLC, a Nevada limited liability company ("RAL") and Creditor or between Borrower's members and Creditor executed pursuant to the Subordinated Loan Agreement or securing the Subordinated Debt, existing now or in the future and (iii) the guaranty agreement from William M. Bryan in favor of Creditor guaranteeing payment of the Subordinated Debt.

- b. "Subordinated Loan Agreement" means the Business Loan Agreement among Borrower, RAL and Creditor dated effective May 1, 2015.
- c. "Subordinated DOT" means the deed of trust granted by Borrower in favor of Creditor covering all or any portion of the Property or the other Collateral and securing the Subordinated Debt.
- d. "Subordinated Security Agreement" means the Security Agreement made by Borrower in favor of Creditor securing the Subordinated Debt and dated effective May 1, 2015.
- e. "Subordinated Note" means the 16% Secured Promissory Note made by Borrower and RAL in favor of Creditor in the principal face amount of \$2,045,000 and dated effective May 1, 2015.
- f. "Subordinated Debt" means all indebtedness owing from Borrower to Creditor pursuant to any of the Subordinated Loan Documents including without limitation all principal, interest, fees, penalties, charges, costs and expenses of enforcement or collection and amounts owed by virtue of protective advances.
- g. "Senior Loan Guarantor" means each of William M. Bryan, Richard S. Herschenfeld and RBD Capital Group, LLC, a California limited liability company.

13. This Agreement shall bind any successors or assignees of Creditor and shall benefit any successors or assigns of Senior Lender. This Agreement is solely for the benefit of Creditor and Senior Lender and not for the benefit of Borrower or any other party.

14. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

15. Creditor shall not assign or transfer its rights and obligations under the Subordinated Loan Documents or any interest in the Subordinated Debt.

16. This Agreement shall be governed by, and construed in accordance with, the internal laws of the State of Oklahoma, without regard to principles of conflicts of law.

17. This Agreement represents the entire agreement with respect to the subject matter hereof, and supersedes all prior negotiations, agreements and commitments. Creditor is not relying on any representations by Senior Lender or Borrower in entering into this Agreement, and Creditor has kept and will continue to keep itself fully apprised of the financial and other condition of Borrower. This Agreement may be amended only by written instrument signed by Creditor and Senior Lender.

18. Any notices or other communications required or permitted hereunder shall be sufficiently given if delivered personally, if sent by facsimile transmission, if sent by a nationally recognized overnight courier, or if sent by registered or certified mail, postage prepaid, return receipt requested and addressed as listed below or to such other address as the party concerned may substitute by written notice to the other. All notices shall be deemed received on the date of personal delivery, the date of confirmation of receipt of a facsimile transmission, the next business day after such notice is deposited with a national overnight courier for

delivery, or within three days (excluding Saturdays, Sundays and holidays recognized in the United States) after being mailed:

To Creditor: Huntington Capital Fund III, L.P.
3636 Nobel Drive, Suite 401
San Diego, CA 92122
Attn: Morgan L. Miller, Jr.

With a copy to: Mulvaney Barry Beatty Linn & Mayers LLP
401 West A Street, 17th Flr.
San Diego, CA 92111
Attn: Rex B. Beatty

To the Senior Lender: BOKF, NA dba Bank of Oklahoma
201 Robert S. Kerr Avenue
Oklahoma City, Oklahoma 73102
Attn: Robert Duncan

With a copy to: J. Dillon Curran, Esq.
Conner & Winters, LLP
One Leadership Square
211 North Robinson, Suite 1700
Oklahoma City, Oklahoma 73102

19. Time is of the essence of this Agreement.

20. The invalidity or unenforceability of any provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

21. In the event of any legal action to enforce the rights of a party under this Agreement, the party prevailing in such action shall be entitled, in addition to such other relief as may be granted, all reasonable costs and expenses, including reasonable attorneys' fees, incurred in such action.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first above written.

"Creditor":

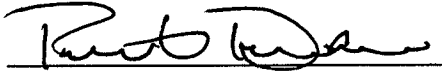
HUNTINGTON CAPITAL FUND III, L.P., a Delaware Limited Partnership

By: HFMC III, LLC
Its: General Partner

By: 
Name: Morgan L. Miller, Jr.
Its: Member

"Senior Lender":

BOKF, NA dba Bank of Oklahoma

By: 
Robert Duncan, Vice President

The undersigned execute only to evidence their consent to the Agreement but not as parties thereto:

"Borrower":

SKY LAKES SNF, LLC, a California limited liability company

By: RBD CAPITAL GROUP, LLC, a California limited liability company, Manager

By: _____
WILLIAM M. BRYAN, Managing Member

"Senior Loan Guarantor":

RBD CAPITAL GROUP, LLC, a California limited liability company

By: _____
WILLIAM M. BRYAN, Managing Member

"Senior Loan Guarantor":

RICHARD S. HERSCHENFELD, an individual

"Senior Loan Guarantor":

WILLIAM M. BRYAN, an individual

"Senior Lender":

BOKF, NA dba Bank of Oklahoma

By: _____
Robert Duncan, Vice President

The undersigned execute only to evidence their consent to the Agreement but not as parties thereto:

"Borrower":

SKY LAKES SNF, LLC, a California limited liability company

By: RBD CAPITAL GROUP, LLC, a California limited liability company, Manager

By: _____
WILLIAM M. BRYAN, Managing Member

"Senior Loan Guarantor":

RBD CAPITAL GROUP, LLC, a California limited liability company

By: _____
WILLIAM M. BRYAN, Managing Member

"Senior Loan Guarantor":

RICHARD S. HERSCHENFELD, an individual

"Senior Loan Guarantor":

WILLIAM M. BRYAN, an individual

CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of San Diego)

On the 8th day of May, 2015, before me, Michael P. Armstrong, a notary public, personally appeared Morgan L. Miller, Jr., who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct. WITNESS my hand and official seal.

Michael P. Armstrong
Signature

[SEAL]



STATE OF OKLAHOMA)
COUNTY OF OKLAHOMA) SS:

I, the undersigned, a Notary Public in and for said county in said state, hereby certify that Robert Duncan, vice president of BOKF, NA dba BANK OF OKLAHOMA, has signed the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily on the day the same bears date for and as the act of said entity.

GIVEN under my hand and official seal of office, this 30th day of April, 2015.

[SEAL]



Susan Blethrow
Notary Public
My Commission Number: 99016159
My Commission Expires: 10-08-2015

CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)
County of)

On the ____ day of _____, 2015, before me, _____, a notary public, personally appeared Morgan L. Miller, Jr., who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct. WITNESS my hand and official seal.

Signature

[SEAL]

STATE OF OKLAHOMA)
) SS:
COUNTY OF OKLAHOMA)

I, the undersigned, a Notary Public in and for said county in said state, hereby certify that Robert Duncan, vice president of BOKF, NA dba BANK OF OKLAHOMA, has signed the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily on the day the same bears date for and as the act of said entity.

GIVEN under my hand and official seal of office, this 30th day of April, 2015.

[SEAL]



Susan Blethrow
Notary Public

My Commission Number: 99016159
My Commission Expires: 10-08-2015

CERTIFICATE OF ACKNOWLEDGMENT

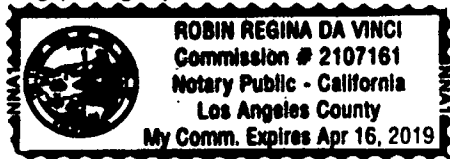
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of Los Angeles)

On the 4th day of May, 2015, before me, Robin Regina Da Vinci, a notary public, personally appeared WILLIAM M. BRYAN, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct. WITNESS my hand and official seal.



Robin Regina Da Vinci
Signature

[SEAL]

CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of Los Angeles)

On the 4th day of May, 2015, before me, Robin Regina Da Vinci, a notary public, personally appeared RICHARD HERSCHENFELD, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct. WITNESS my hand and official seal.

Robin Regina Da Vinci
Signature

[SEAL]



Exhibit "A"

Legal Description

Real property in the City of Klamath Falls, County of Klamath, State of Oregon, described as follows:

PARCEL I:

A TRACT OF LAND SITUATED IN THE SW 1/4 OF THE NE 1/4 OF SECTION 20, TOWNSHIP 38 SOUTH, RANGE 9 EAST, WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, BEING A PORTION OF BLOCKS 7 AND 8 AND VACATED HILLTOP STREET, MCLOUGHLIN HEIGHTS SUBDIVISION, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF MCLOUGHLIN HEIGHTS; THENCE SOUTH 0°46'00" WEST, ALONG THE EAST BOUNDARY OF MCLOUGHLIN HEIGHTS, 100.0 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 0°46'00" WEST, ALONG THE EAST BOUNDARY OF MCLOUGHLIN HEIGHTS 572.30 FEET TO THE NORTH BOUNDARY OF FOOTHILLS BOULEVARD; THENCE 40.57 FEET ALONG THE ARC OF A 20.00 FOOT RADIUS CURVE TO THE RIGHT (THE LONG CHORD OF WHICH BEARS SOUTH 58°53' WEST, 33.97 FEET); THENCE NORTH 63°00'00" WEST, ALONG THE NORTH BOUNDARY OF FOOTHILLS BOULEVARD, 104.35 FEET; THENCE 482.81 FEET ALONG THE ARC OF A 774.83 FOOT RADIUS CURVE TO THE LEFT (THE LONG CHORD OF WHICH BEARS NORTH 80°51'03" WEST, 475.03 FEET); THENCE LEAVING SAID ROAD BOUNDARY NORTH 20°39'40" EAST, 504.11 FEET; THENCE SOUTH 89°21'00" EAST, 420.87 FEET TO THE TRUE POINT OF BEGINNING. TOGETHER WITH THE NORTHERLY ONE-HALF OF VACATED FOOTHILL BOULEVARD ABUTTING THE SOUTHERLY BOUNDARY OF THE ABOVE DESCRIBED PARCEL.

ALSO INCLUDING LOTS 8, 9, 10, 11, 12, 13, 14 AND 15 OF BLOCK 6 OF MCLOUGHLIN HEIGHTS SUBDIVISION, TOGETHER WITH THE SOUTHERLY ONE-HALF OF VACATED FOOTHILL BOULEVARD ABUTTING THE NORTHERLY BOUNDARY OF SAID LOTS 8, 9, 10, 11, 12, 13, 14 AND 15 OF BLOCK 6;

EXCEPTING THEREFROM LOTS 8, 9, 10, 11, 12, 13, 14 AND 15 OF BLOCK 6 OF MCLOUGHLIN HEIGHTS SUBDIVISION, TOGETHER WITH THE SOUTHERLY ONE-HALF OF VACATED FOOTHILL BOULEVARD ABUTTING THE NORTHERLY BOUNDARY OF SAID LOTS 8, 9, 10, 11, 12, 13, 14 AND 15 OF BLOCK 6;

ALSO EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL: COMMENCING AT THE NE 1/16 CORNER OF SECTION 20, TOWNSHIP 38 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, BEING THE NORTHEAST CORNER OF MCLOUGHLIN HEIGHTS SUBDIVISION; THENCE ALONG THE EAST BOUNDARY OF SAID MCLOUGHLIN HEIGHTS AND THE EAST LINE OF THE SW 1/4 NE 1/4 OF SAID SECTION 20 SOUTH 0°46'00" WEST 100.00 FEET TO THE NORTHEAST CORNER OF THAT PARCEL DESCRIBED AS PARCEL 1 IN DEED VOLUME M91, PAGE 13596, RECORDS OF KLAMATH COUNTY, OREGON; THENCE ALONG THE NORTHERLY BOUNDARY OF SAID PARCEL NORTH 89°21'00" WEST 420.87 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE SOUTH 20°39'40" WEST 504.11 FEET TO THE SOUTHWEST CORNER OF THAT PARCEL DESCRIBED IN DEED VOLUME M75, PAGE 8321, RECORDS OF KLAMATH COUNTY, OREGON AND THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION; THENCE SOUTH 08°42'06" EAST 25.00 FEET TO THE CENTERLINE OF VACATED FOOTHILL BOULEVARD; THENCE FOLLOWING SAID CENTERLINE ALONG THE ARC OF A 749.83 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT 82.06 FEET, THE LONG CHORD OF WHICH BEARS SOUTH 84°26'01" WEST 82.02 FEET; THENCE LEAVING SAID CENTERLINE NORTH 09°10'20" WEST 12.82 FEET; THENCE SOUTH 80°17'48" WEST 17.62 FEET; THENCE NORTH 09°32'02" WEST 17.40 FEET; THENCE SOUTH 80°54'52" WEST 63.92 FEET TO THE POINT OF BEGINNING:

ALSO EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PORTION OF PARCEL 1 OF DEED VOLUME M91, PAGE 13596, RECORDS OF KLAMATH COUNTY, OREGON: BEGINNING AT A POINT ON THE EAST BOUNDARY OF MCLOUGHLIN HEIGHTS WHICH BEARS SOUTH 0°46'00" WEST 100.00 FEET FROM THE NORTHEAST CORNER THEREOF, SAID POINT BEING THE NORTHEAST CORNER OF SAID PARCEL 1 OF DEED VOLUME M91, PAGE 13596; THENCE NORTH 89°21'00" WEST ALONG THE NORTH LINE OF SAID PARCEL 420.87 FEET TO THE NORTHWEST CORNER THEREOF; THENCE SOUTH 20°39'40" WEST ALONG THE WESTERLY LINE OF SAID PARCEL 173.00 FEET TO A POINT; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL SOUTH 86°54'35" EAST 274.87 FEET; THENCE LEAVING SAID SOUTHERLY LINE NORTH 15°01'01" EAST 28.90 FEET; THENCE NORTH 72°20'55" EAST 13.09 FEET; THENCE SOUTH 69°41'02" EAST 99.96 FEET; THENCE SOUTH 24°30'18" EAST 3.74 FEET TO THE SOUTHERLY LINE OF SAID PARCEL 1; THENCE SOUTH 86°54'35" EAST TO A POINT ON THE EAST LINE OF SAID PARCEL; THENCE NORTH 0°46'00" EAST ALONG SAID EAST LINE 183.00 FEET TO THE POINT OF BEGINNING.

PARCEL II:

A RECIPROCAL ACCESS EASEMENT OVER THE FOLLOWING DESCRIBED PROPERTY:

A STRIP OF LAND 30 FEET IN WIDTH SITUATED IN THE SW 1/4 OF THE NE 1/4 OF SECTION 20, TOWNSHIP 38 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, BEING 15 FEET, MEASURED AT RIGHT ANGLES, ON BOTH SIDES OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT WHICH BEARS S31°11'02"E 28.00 FEET FROM THE NE 1/16 CORNER OF SAID SECTION 20, (ALSO BEING THE NORTHEAST CORNER OF MCLOUGHLIN HEIGHTS SUBDIVISION) THENCE S10°16'15"E 333.71 FEET; THENCE 203.24 FEET ALONG THE ARC OF A 1230.78 FOOT RADIUS CURVE TO THE LEFT, SAID CURVE HAVING A DELTA ANGLE OF 9°27'40" AND A LONG CHORD WHICH BEARS S5°32'25"W 203.01 FEET; THENCE 14.04 FEET ALONG THE ARC OF A 200.00 FOOT RADIUS CURVE TO THE LEFT, SAID CURVE HAVING A DELTA ANGLE OF 4°01'21" AND A LONG CHORD WHICH BEARS S1°12'06"E 14.04 FEET; THENCE S3°12'47"E 44.14 FEET; THENCE 14.15 FEET ALONG THE ARC OF A 200.00 FOOT RADIUS CURVE TO THE RIGHT, SAID CURVE HAVING A DELTA ANGLE OF 4°03'10" AND A LONG CHORD WHICH BEARS S1°11'12"E 14.14 FEET; THENCE 68.76 FEET ALONG THE ARC OF A 1141.25 FOOT RADIUS CURVE TO THE RIGHT, SAID CURVE HAVING A DELTA ANGLE OF 3°27'08" AND A LONG CHORD WHICH BEARS S2°33'57"W 68.75 FEET; THENCE 74.74 FEET ALONG THE ARC OF A 37.08 FOOT RADIUS CURVE TO THE RIGHT, SAID SURVE HAVING A DELTA ANGLE OF 115°28'49" AND A LONG CHORD WHICH BEARS S62°01'55"W 62.71 FEET; THENCE 134.31 FEET ALONG THE ARC OF A 781.75 FOOT RADIUS CURVE TO THE LEFT, SAID CURVE HAVING A DELTA ANGLE OF 9°50'39" AND A LONG CHORD WHICH BEARS N65°09'00" W 134.15 FEET; THENCE 314.28 FEET ALONG THE ARC OF A 600.00 FOOT RADIUS CURVE TO THE LEFT, SAID CURVE HAVING A DELTA ANGLE OF 30°00'43" AND A LONG CHORD WHICH BEARS N85°04'41"W 310.70 FEET, TO A POINT WHICH BEARS S40°40'12"W 845.96 FEET FROM SAID NE 1/16 CORNER OF SECTION 20; THENCE WESTERLY AS PRESENTLY CONSTRUCTED TO THE EASTERLY RIGHT OF WAY LINE OF DAGGETT AVENUE; THE SIDE LINES OF SAID STRIP TO BE LENGTHENED OR SHORTENED TO TERMINATE AT THE EAST LINE OF SAID SW 1/4 NE 1/4 OF SECTION 20 AND AT SAID EASTERLY RIGHT OF WAY OF DAGGETT AVENUE.