

SETTLEMENT AGREEMENT
By and Between
Pacific County, Oakes Logging, LLC and Craft3

THIS AGREEMENT is made between Pacific County, a municipal corporation, hereinafter referred to as the "COUNTY", Oakes Logging, LLC, and Craft3.

WHEREAS, the COUNTY owns an industrial site located in South Bend that is commonly referred to as the Alder Mill and has leased that site to private companies for the purpose of operating an alder mill site; and

WHEREAS, Pacific Hardwoods is a private company that was the prior lessor of the Alder Mill site. Pacific Hardwoods entered into a loan with Craft3. Pacific Hardwoods used the equipment and machinery owned by the Company as collateral to secure this loan. In July, 2017, Pacific Hardwoods defaulted on their lease agreement with Pacific County and subsequently also defaulted on a loan with Craft3; and

WHEREAS, Neither Willapa Bay Hardwoods nor Pacific Hardwoods has not paid any personal property taxes on the equipment and machinery and currently there is \$68,701.46 in personal property taxes owing; and

WHEREAS, there is also \$1,593.67 owing in previous real property taxes owing; and

WHEREAS, Oakes Logging, LLC approached the COUNTY expressing interest in decommissioning the alder mill site and removing salvageable purchasing equipment and machinery and scraping other metal and, in turn, Oakes Logging, LLC will fully satisfy the delinquent personal and real property tax owing to the COUNTY, and

WHEREAS, upon evidence that the delinquent personal property owing for equipment and machinery located at the Alder Mill Site and detailed on Attachment A, Craft3 will release the lien currently placed on said equipment.

IN CONSIDERATION OF the terms, conditions, covenants, and performances described herein, the parties hereto **HEREBY AGREE AS FOLLOWS:**

I. RESPONSIBILITIES

The COUNTY will:

- Provide access to the site
- Provide water service to the site to be available during the deconstruction and removal of equipment and machinery at the Alder Mill site.
- Pacific County will guarantee clear title to all equipment, machinery and all personal property on site including all liens and encumbrances.

Oakes Logging, LLC will:

- Pay, in full, to Pacific County Treasurer Office all back and current personal property and real property tax owing on parcel numbers 80920010000, 8121201000 and 81710050000 in a total amount of \$70,295.13. Payment must be paid in full prior to beginning any removal of equipment, machinery or deconstruction at the Alder Mill site.
- Remove all machinery and equipment, scrap, electrical components, air lines and conduit (any ferrous material) included on Attachment B, not including the planer mill structure.
- Remove all contained petroleum products (drums, barrels, totes, hydraulic systems)
- Demolish all structures except for the planer mill building. All non-ferrous material will be piled in a location and in a manner agreeable to the COUNTY and Oakes Logging, LLC

Craft3 will:

- Upon notification that delinquent taxes have been fully satisfied release all liens and interest in equipment and machinery listed as collateral for loan provided to Pacific Hardwoods. See Attachment C
- Craft3 makes no representation as to what equipment is on any site, its operating status, nor its value.

II. DURATION OF AGREEMENT

The terms of this Agreement and the performance of the parties shall be deemed to have commenced once delinquent taxes have been fully satisfied by Oakes Logging, LLC and Craft3 has provided documentation that lien on the equipment has been released.

This agreement will extend for 6 months once the agreement and work at the mill has commenced.

This Agreement may be extended or terminated upon mutual agreement between the parties hereto and pursuant to the terms and conditions of this Agreement.

III. ESTABLISHMENT AND MAINTENANCE OF RECORDS

Oakes Logging, LLC agrees to maintain books, records, and documents, and to employ accounting procedures and practices, which accurately reflect all direct and indirect costs related to the performance of this Agreement. Oakes Logging, LLC shall retain all books, records, documents, and other materials relevant to this Agreement three (3) years after its expiration or termination for any reason.

IV. COMPLIANCE WITH LAWS

Oakes Logging, LLC, in performance of this Agreement, agrees to comply with all applicable local, state, and federal laws or ordinances, including standards for licensing, certification, and operation of facilities, programs, and accreditation, licensing of individuals and any other standards or criteria as described in the Agreement to assure quality of services.

V. INDEMNIFICATION/HOLD HARMLESS

a. **Indemnification by Oakes Logging, LLC.** To the fullest extent permitted by law, Oakes Logging, LLC agrees to indemnify, defend and hold the COUNTY and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which 1) are caused in whole or in part by any action or omission, negligent or otherwise, of Oakes Logging, LLC, its employees, agents or volunteers or Oakes Logging, LLC subcontractors and their employees, agents or volunteers; or 2) are directly or indirectly arising out of, resulting from, or in connection with performance of this Contract; or 3) are based upon Oakes Logging, LLC or its subcontractors' use of, presence upon or proximity to the property of the COUNTY. This indemnification obligation of Oakes Logging, LLC shall not apply in the limited circumstance where the claim, damage, loss or expense is caused by the sole negligence of the COUNTY. This indemnification obligation of Oakes Logging, LLC shall not be limited in any way by the Washington State Industrial Insurance Action RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and Oakes Logging, LLC hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of Oakes Logging, LLC are a material

inducement to COUNTY to enter into the Agreement, are reflected in Oakes Logging LLC, and have been mutually negotiated by the parties.

b. Participation County – No Waiver. The COUNTY reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses or expenses and such participation shall not constitute a waiver of Oakes Logging, LLC indemnity obligations under the Agreement.

c. Survival of Oakes Logging's Indemnity Obligations. Oakes Logging, LLC agrees all Oakes Logging, LLC indemnity obligations shall survive the completion, expiration or termination of this Agreement.

VI. INSURANCE

Without limiting Oakes Logging LLC indemnification of COUNTY, and prior to commencement of this Agreement, Oakes Logging LLC shall obtain, provide and maintain during the term of this Agreement, policies or insurance of the type and amounts described below and, in a form, satisfactory to the COUNTY.

a. General Liability Insurance. Oakes Logging LLC shall maintain commercial general liability insurance with at least as broad as Insurance Services Office form CG 00 0, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability.

b. Workers' Compensation Insurance. Oakes Logging LLC shall, at its own expense, maintain Workers' Compensation Insurance (statutory limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).

c. Waiver of Subrogation. All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against COUNTY, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Oakes Logging, LLC or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Oakes Logging, LLC hereby waives its own right of recovery against COUNTY, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

d. Automobile Liability Insurance. Oakes Logging, LLC shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of Oakes Logging, LLC arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hire, non-owned or rented vehicles, in an amount not less than 1,000,000 combined single limit for each accident.

Oakes Logging, LLC must name the COUNTY as an additional insured. Oakes Logging LLC agrees that its liability insurance shall be primary and non-contributory to the COUNTY's and that Oakes Logging, LLC liability insurance policy shall so state.

VII. ATTORNEY'S FEES/COST OF SUIT AND VENUE

If any party files suit to enforce this Agreement, parties agree that the prevailing party in any such action shall be entitled to collection costs, reasonable attorney's fees, and costs of suit.

a. Disputes. Differences between Oakes Logging, LLC, the COUNTY and/or Craft3, arising under and by virtue of this Agreement, shall be brought to the attention of the COUNTY at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance by Oakes Logging, LLC shall be decided by the COUNTY'S Agreement representative or designee. All rulings, orders,

instructions and decisions of the COUNTY'S contract representative shall be final and conclusive, subject to their right to seek judicial relief pursuant to Choice of Law, Jurisdiction and Venue.

b. Choice of Law, Jurisdiction and Venue. This Agreement has been and shall be construed as having been made and delivered within the State of Washington and it is agreed by each party hereto that this Agreement shall be governed by the laws of the State of Washington, both as to its interpretation and performance.

Any action at law, suit in equity, or judicial proceeding arising out of this Agreement shall be instituted and maintained only in any of the courts of competent jurisdiction in Pacific County, Washington.

c. Severability. If a court of competent jurisdiction holds any part, term or provision of this Agreement to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid. Furthermore, if such an event occurs, the parties agree to negotiate a modification to replace the unacceptable provision(s) as soon as possible. If any provision of this Agreement is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

Should the COUNTY determine that the severed portions substantially alter this Agreement so that the original intent and purpose of the Agreement no longer exists, the COUNTY may, in its sole discretion, terminate this Contract.

VIII. PUBLIC RECORDS ACT

This Agreement and all public records associated with this Agreement shall be available from the COUNTY for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of Oakes Logging, LLC or Craft3 are needed for the COUNTY to respond to a request under the Act, as determined by the COUNTY, Oakes Logging, LLC and Craft3 agrees to make them promptly available to the COUNTY. If Oakes Logging, LLC and/or Craft3 considers any portion of any record provided to the COUNTY under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, Oakes Logging, LLC and/or Craft3 shall clearly identify any specific information that it claims to be confidential or proprietary. If the COUNTY receives a request under the Act to inspect or copy the information so identified by Oakes Logging, LLC and/or Craft3 and the COUNTY determines that release of the information is required by the Act or otherwise appropriate, the COUNTY's sole obligations shall be to notify Oakes Logging, LLC and/or Craft3 (a) of the request and (b) of the date that such information will be released to the requester unless Oakes Logging, LLC and/or Craft3 obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If Oakes Logging, LLC and/or Craft3 fails to timely obtain a court order enjoining disclosure, the COUNTY will release the requested information on the date specified.

The COUNTY has, and by this section assumes, no obligation on behalf of Oakes Logging, LLC or Craft3 to claim any exemption from disclosure under the Act. The COUNTY shall not be liable to Oakes Logging, LLC or Craft3 for releasing records not clearly identified by Oakes Logging, LLC or Craft3 as confidential or proprietary. The COUNTY shall not be liable to Oakes Logging, LLC or Craft3 for any records that the COUNTY releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

IX. ENTIRE AGREEMENT

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by all parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed
this _____ day of _____, 2020.

Oakes Logging, LLC

BOARD OF COUNTY COMMISSIONERS
PACIFIC COUNTY, WASHINGTON

Name

Frank Wolfe, Chair

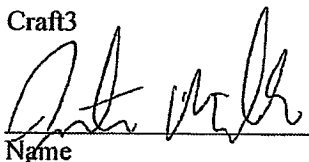
Title

Lisa Olsen, Commissioner

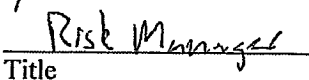
Dated: _____

Michael Runyon, Commissioner

Craft3



Name



Title

Dated: 9/10/2020

ATTEST:

Marie Guernsey, Clerk of the Board

APPROVED AS TO FORM:

Ben Haslam, Prosecutor

WSBA#