

W. I.S.A.



Memorandum Date: October 5, 2006

Order Date: October 25, 2006

TO: Board of County Commissioners

DEPARTMENT: Public Works Dept./Land Management Division

PRESENTED BY: BILL VANVACTOR, COUNTY ADMINISTRATOR
KENT HOWE, PLANNING DIRECTOR

AGENDA ITEM TITLE: IN THE MATTER OF CONSIDERING A BALLOT MEASURE 37 CLAIM AND DECIDING WHETHER TO MODIFY, REMOVE OR NOT APPLY RESTRICTIVE LAND USE REGULATIONS IN LIEU OF PROVIDING JUST COMPENSATION (PA 05-6234, CBM FAMILY LLC).

I. MOTION

Move to approve the Measure 37 Claim and adopt the order attached to this memo.

II. AGENDA ITEM SUMMARY

Shall the Board of County Commissioners compensate an applicant under Ballot Measure 37 and LC 2.700 through 2.770 for the reduction in fair market value of the affected property interest resulting from enactment or enforcement of restrictive land use regulations or modify, remove, or discontinue application of those land use regulations to the subject property to allow Ross and Corrine Murry to use the property as allowed at the time they acquired an interest in the property?

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

This item was originally heard on April 19, 2006. At the hearing, the applicant requested this item be placed on hold indefinitely. The Board decided to roll this item to October 25, 2006. No new information has been submitted.

Applicant: Dennis Bottem

Current Owner: CBM Family LLC

Agent: Dennis Bottem

Map and tax lots: 18-05-08 #604, 606, 607 and 608.

Acreage: 245 acres

Current Zoning: E40 (Exclusive Farm Use)

Date Property Acquired: April 25, 2002

Date claim submitted: August 23, 2005. The applicant submitted a timeline waiver on January 17, 2006. On April 14, 2006, the applicant waived the 180 day deadline.

Land Use Regulations in Effect at Date of Murry Family Acquisition: Unzoned.

County land use regulation which restricts the use and reduces the fair market value of claimant's property: LC 16.212 E40 (Exclusive Farm Use) zone.

B. Policy Issues

The applicant has submitted an appraisal as evidence of a reduction in fair market value resulting from enforcement of a restrictive land use regulation.

C. Board Goals

The public hearing will provide an opportunity for citizen participation in decision making, in conformance with the overall goals of the Lane County Strategic Plan.

D. Financial and/or Resource Considerations

The applicant has requested compensation or a waiver of the E40 (Exclusive Farm Use) zone regulations that prohibit the division of the property into lots containing less than 40 acres and construction of a dwelling on each lot. The applicant has not identified a specific amount of compensation.

E. Analysis

The claimant has submitted information in support of this claim including an appraisal, deeds and the processing fee. The property contains approximately 245 acres and is zoned E40. In this zone, the minimum lot size is 40 acres and new dwellings require a special use permit. The applicant wishes to subdivide the property into lots that contain less than 40 acres and place a dwelling on each lot. The property is currently owned by the CBM Family LLC.

Ross and Corrine Murry acquired an interest in the property on August 27, 1974 (Memorandum of Agreement #7439440). On that date, the property was unzoned. Sometime after that date, the property was conveyed to the Corrine Family LLC, but no evidence has been submitted that identifies when that occurred. The property was conveyed to the CBM Family LLC on April 25, 2002 (Bargain and Sale Deed #2002-32926). On that date, the property was zoned E40. Based on the evidence in the record, it appears the Murry family has an

ownership interest in the LLC. Because of this, the chain of family ownership appears to be intact and the current owner can trace a reduction in value from the date the Murry family acquired an interest in the property. However, any waiver of a restrictive land use regulation will be to the date the current owner acquired the property (April 25, 2002).

According to the appraisal, the property is worth \$284,500 and if the property is divided into ten-acre lots, each lot would be worth \$225,000. The Board must determine if this evidence demonstrates a reduction in fair market value from enforcement of a restrictive land use regulation.

To have a valid claim against Lane County under Measure 37 and LC 2.700 through 2.770, the applicant must prove:

1. Lane County has enacted or enforced a restrictive land use regulation since the owner acquired the property, and
2. The restrictive land use regulation has the effect of reducing the fair market value of the property, and
3. The restrictive land use regulation is not an exempt regulation as defined in LC 2.710.

Restrictive Regulations

Ross and Corrine Murry acquired an interest in the property on August 27, 1974 (Memorandum of Agreement #7439440) when it was unzoned. The property was conveyed to the CBM Family LLC on April 25, 2002 (Bargain and Sale Deed #2002-32926). It appears the Murry family has an ownership interest in the LLC. Because of this, the LLC is allowed to demonstrate a reduction in fair market value from the date the Murry family acquired an interest in the property.

If the Board determines this is a valid claim, the waiver will be granted to the CBM Family LLC and will waive the restrictive regulations enacted since April 25, 2002. Because the minimum lot size of 40 acres and the restrictions on new dwellings were applicable when the current owner acquired the property, those regulations can not be waived.

Reduction in Fair Market Value

According to the submitted appraisal, the property is worth \$284,500. If the property is divided into ten-acre lots, each lot would be worth \$225,000. The Board must determine if this evidence demonstrates a reduction in fair market value from enforcement of a restrictive land use regulation.

Exempt Regulations

The E40 (Exclusive Farm Use) zone limitations on new dwellings, and the minimum parcel size of 40 acres do not appear to be exempt regulations described in Measure 37 or LC 2.710.

Conclusion

It appears this is a valid claim if the Board determines the submitted evidence demonstrates a reduction in fair market value resulting from enforcement of a restrictive land use regulation.

F. Alternatives/Options

The Board has these options:

- Determine the application appears valid and adopt the order attached to this report.
- Require more information regarding the reduction in value or ownership.
- Conclude the application is not a valid claim and direct the issuance of a final written decision by the County Administrator denying the Claim.

V. TIMING/IMPLEMENTATION

If the Board determines this is a valid claim and waives a land use regulation, the claimant must receive a similar waiver from the state before a land use application and/or development proposal is submitted.

VI. RECOMMENDATION

If the Board determines the submitted evidence demonstrates a reduction in fair market value from enforcement of a restrictive land use regulation, the County Administrator recommends the Board waive the restrictive land use regulations enacted after April 25, 2002. This

VII. FOLLOW-UP

If an order is adopted, it will be recorded.

VII. ATTACHMENTS

This cover memo prepared for the Board hearing does not contain the entire submittal. The entire submittal is contained in a notebook labeled "PA05-6234", available in the County Commissioners Office. The portions of the submittal included with this memo are identified below:

- Draft order to approve the claim of the CBM Properties LLC.
- Vicinity Map.
- Memorandum of Agreement #7439440 dated August 27, 1974.
- Bargain and Sale Deed #2002-32926 dated April 25, 2002.
- CBM Family LLC operating agreement.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY,
OREGON**

ORDER No.) IN THE MATTER OF CONSIDERING A BALLOT
) MEASURE 37 CLAIM AND DECIDING
) WHETHER TO MODIFY, REMOVE OR NOT
) APPLY RESTRICTIVE LAND USE
) REGULATIONS IN LIEU OF PROVIDING JUST
) COMPENSATION (PA05-6234/CBM Family LLC).

WHEREAS, the voters of the State of Oregon passed Ballot Measure 37 on November 2, 2004, which added provisions to Oregon Revised Statutes (ORS) Chapter 197 to require, under certain circumstances, payment to landowner if a government land use regulation restricts the use of private real property and has the effect of reducing the property value; and

WHEREAS, the Board of County Commissioners of Lane County enacted Ordinance No. 18-04 on December 1, 2004, to establish a real property compensation claim application process in LC 2.700 through 2.770 for Ballot Measure 37 claims; and

WHEREAS, the County Administrator has reviewed an application for a Measure 37 claim submitted by Dennis Bottem (PA05-6234) on behalf of the CBM Family LLC, the owner of real property described in the records of the Lane County Assessor as map 18-05-08, tax lots 604, 606, 607 and 608, consisting of approximately 245 acres in Lane County, Oregon; and

WHEREAS, the County Administrator has determined that the application appears to meet all of the criteria of LC 2.740(1)(a)-(d), appears to be eligible for just compensation and appears to require modification, removal or not applying the restrictive land use regulations in lieu of payment of just compensation and has referred the application to the Board for public hearing and confirmation that the application qualifies for further action under Measure 37 and LC 2.700 through 2.770; and

WHEREAS, the County Administrator has determined under LC 2.740(4) that modification, removal or not applying the restrictive land use regulation is necessary to avoid owner entitlement to just compensation under Ballot Measure 37 and made that recommendation to the Board; and

WHEREAS, the Board has reviewed the evidence and confirmed the application appears to qualify for compensation under Measure 37 but Lane County has not appropriated funds for compensation for Measure 37 claims and has no funds available for this purpose; and

WHEREAS, on April 19, 2006, and October 25, 2006, the Board conducted public hearings on the Measure 37 claim (PA05-6234) of Dennis Bottem and has now determined that the restrictive E40 (Exclusive Farm Use) zone dwelling and land division requirements of LC 16.212 were enforced and made applicable to prevent Ross and Corrine Murry from developing the property as might have been allowed on August 27, 1974, the date they acquired an interest in the property, and that the public benefit from application of the current E40 restrictions on new dwellings and the minimum parcel size to the applicant's property is outweighed by the public burden of paying just compensation; and

WHEREAS, Dennis Bottem requests either \$4,275,000 as compensation for the reduction in value of the property, or waiver of all land use regulations that would prevent the division of the land into lots that contain less than 40 acres and placement of a dwelling on each lot, uses that could have otherwise been allowed at the time Ross and Corrine Murry acquired an interest in the property; and

WHEREAS, the Board finds that under LC 2.760(3) the public interest would be better served by modifying, removing or not applying the challenged land use regulations of the E40 zone to the subject property in the manner and for the reasons stated in the report and recommendation of the County Administrator incorporated here by this reference except as explicitly revised here to reflect Board deliberation and action to allow the current owner, CBM Family LLC, to make application for development of the subject property in a manner similar to what it could have been able to do under the regulations in effect when it acquired an interest in the property on April 25, 2002; and

WHEREAS, this matter having been fully considered by the Lane County Board of Commissioners.

NOW, THEREFORE IT IS HEREBY ORDERED that the applicant made a valid claim under Ballot Measure 37 by describing the use being sought, identifying the county land use regulations prohibiting that use, submitting evidence that those land use regulations have the effect of reducing the value of the property, showing evidence that Ross and Corrine Murry acquired the property before the restrictive county land use regulations were enacted or enforced and the Board hereby elects not to pay just compensation but in lieu of payment, the request shall be granted and the restrictive provisions of LC 16.212 enacted after April 25, 2002, shall not apply to the CBM Family LLC, so that it can make application for approval to develop the property described in the records of the Lane County Assessor as map 18-05-08, tax lots 604, 606, 607 and 608, in a manner consistent with the land use regulations in effect when the CBM Family LLC acquired the property on April 25, 2002.

IT IS HEREBY FURTHER ORDERED that the CBM Family LLC still will need to make application and receive approval for any development under the other land use regulations applicable to developing the land that were not specifically identified or established by Dennis Bottem as restricting the development or reducing the fair market value of the land, and it would be premature to not apply those regulations given the available evidence. To the extent necessary to effectuate the Board action to not apply the restrictive regulations of the E40 (Exclusive Farm Use) zone that were enacted after April 25, 2002, the claimant shall submit appropriate applications for review and approval of specific development proposals and in the event additional county land use regulations result in a restriction of those uses that have the effect of reducing the fair market value of the property, the County Administrator shall have the authority to determine those restrictive county land use regulations that will not apply to that development proposal to preclude entitlement to just compensation under Measure 37, and return to the Board for action, if necessary. All other Lane Code land use and development regulations shall remain applicable to the subject property until such time as they are shown to be restrictive and that those restrictions reduce the fair market value of the subject property.

IT IS HEREBY FURTHER ORDERED that this action making certain Lane Code provisions inapplicable to use of the property by the CBM Family LLC does not constitute a waiver or

modification of state land use regulations and does not authorize immediate construction of a dwelling. The requirements of state law may contain specific standards regulating development of the subject property and the applicants should contact the Department of Administrative Services (DAS - State Services Division, Risk Management - Measure 37 Unit, 1225 Ferry Street SE, U160, Salem, OR 97301-4292; Telephone: (503) 373-7475; website address: <http://www.oregon.gov/DAS/Risk/M37.shtml>) and have the State of Oregon evaluate a Measure 37 claim and provide evidence of final state action before seeking county land use approval.

IT IS HEREBY FURTHER ORDERED that the other county land use regulations and rules that still apply to the property require that land use, sanitation and building permits be approved by Lane County before any development can proceed. Notice of this decision shall be recorded in the county deed records. This order shall be effective and in effect as described in LC 2.770 and Ballot Measure 37 to the extent permitted by law. This order does not resolve several questions about the effect and application of Measure 37, including the question of whether the right of applicants to divide or build dwellings can be transferred to another owner. If the ruling of the Marion County Circuit Court in *MacPherson v. Dept. of Administrative Services*, (Marion County Circ. Ct. Case No. 00C15769, October 14, 2005) or any other court decision involving Ballot Measure 37 becomes final and that decision or any subsequent court decision has application to Lane County in a manner that affects the authority of this Board to grant relief under Ballot Measure 37 and LC 2.700 through 2.770 then the validity and effectiveness of this Order shall be governed by LC 2.770 and the ruling of the court.

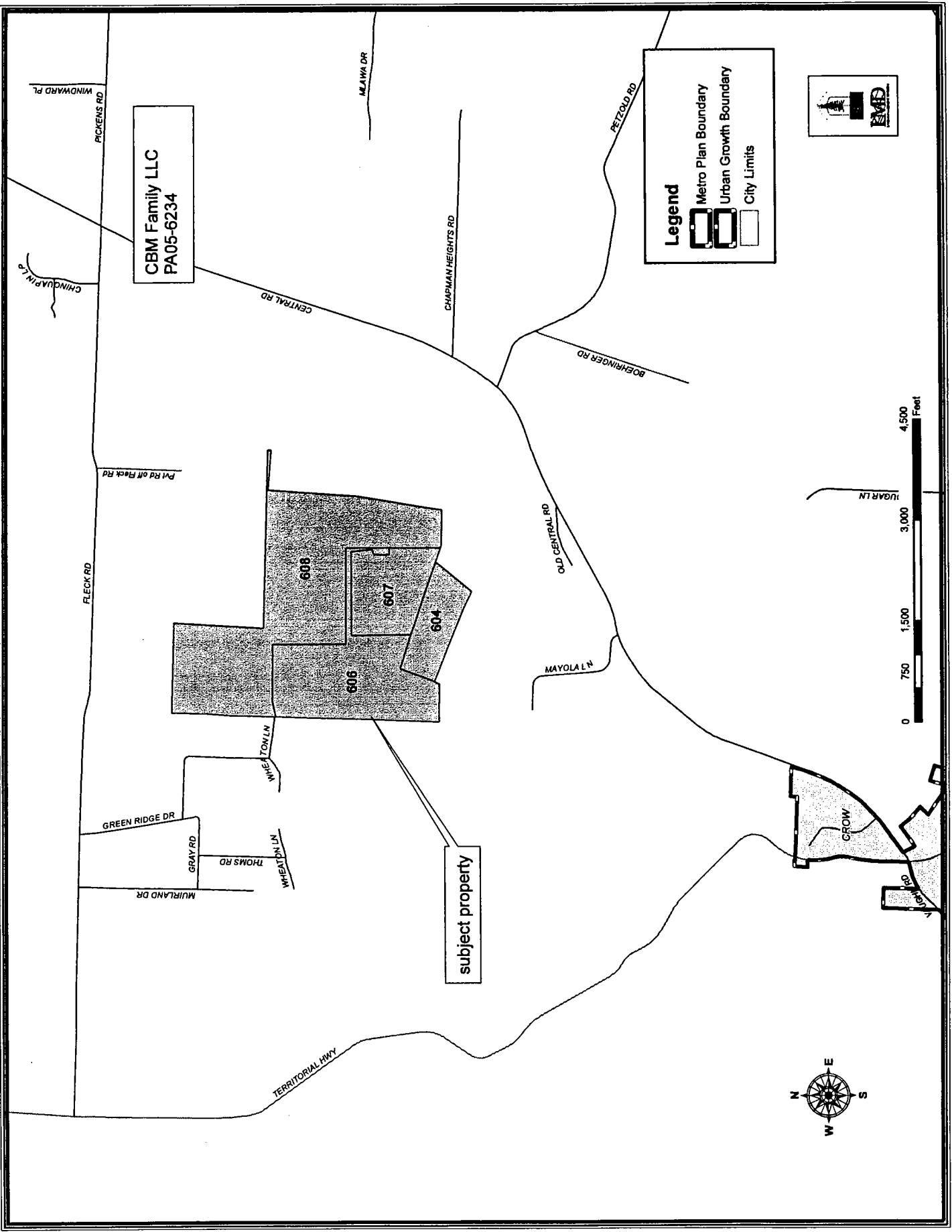
DATED this _____ day of _____, 2006.

Bill Dwyer, Chair
Lane County Board of County Commissioners

APPROVED AS TO FORM

Date 10-17-2006 Lane County


OFFICE OF LEGAL COUNSEL

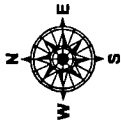


CBM Family LLC
PA05-6234

subject property

Legend

- Metro Plan Boundary
- Urban Growth Boundary
- City Limits



ARNOLD GALLAGHER SAYDACK
PERCELL ROBERTS & POTTER

A Professional Corporation

ATTORNEYS AT LAW

800 U.S. Bank Center
800 Willamette Street
Eugene, OR 97401

Telephone: (541) 484-0188
Facsimile: (541) 484-0536
E-Mail: mreeder@agsrp.com
www.arnoldgallagher.com

Correspondence:
P.O. Box 1758
Eugene, OR 97440-1758

MICHEAL M. REEDER

April 14, 2006

Steve Hopkins, Planner
Lane County Land Management Division
125 East 8th Avenue
Eugene, Oregon 97401

Re: Indefinite Postponement of CBM Family LLC Measure 37 Claim Hearing
Without Withdrawal of Measure 37 Claim (PA 05-6234)
Please Refer to Our File No. 15312-6

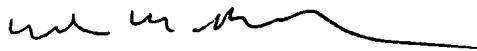
Dear Mr. Hopkins:

We respectfully request that the CBM Family LLC Measure 37 Claim Hearing (PA 05-6234) be pulled from the Wednesday, April 19, 2006 Board of Commissioners meeting agenda. We reserve the right to request a hearing at some future date. We therefore waive the 180-day requirement pursuant to ORS 197.352(6).

Our desire to postpone the hearing on our client's claim is based on the fact that the County Administrator has taken the position that a transfer of real property to a Family LLC creates a new owner for purposes of Measure 37. Although we respectfully disagree with this interpretation, we prefer to wait until this issue is resolved by the courts.

We will notify you once our client has decided to have its claim heard in a public meeting by the Board of Commissioners. Thank you for your attention in this matter.

Very truly yours,



Micheal M. Reeder

MMR:jgh

cc: Client

Kent Howe

N:\A - E\CBM Family LLC 15312\Measure 37 15312-6\Ltr to Planner Hopkins 041406.doc

Application for Claims Under LC 2.700 through 2.770

Due to Regulatory Reduction of Property Value Under Provisions Added to ORS Chapter 197 by BM37

Note: This completed form together with the referenced supporting documentation and application fee must be submitted to the Lane County Land Management Division, 125 East 8th Avenue, Eugene, Dr., 97401 for all claims subject to the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004), to be considered for compensation under LC 2.700 through 2.770. In all cases, the applicant has the burden of demonstrating, with competent evidence, that all applicable criteria are met and the applicant would be entitled to compensation if the land use regulation continues to apply. Use additional paper, if necessary.

1. Applicant/ Agent

Denris Bottem 86724 Central Rd, Eugene, OR 97402 Wk- (541) 684-4639/ Hm -954-8665
Applicant Name (Please Print) Mailing Address Phone

Same as above
Agent Name (Please Print) Mailing Address Phone

2. Property Owner

Please provide the Name, Mailing Address and telephone number of all property owners of record holding interest in the property that is the subject of this application. Include a complete listing of all lien holders, trustees, renters, lessees or anyone with an interest in the property and describe the ownership interest.

CBM Family LLC 86724 Central Rd, Eugene, OR 97402 541-954-8665
Property Owner Name (Please Print) Mailing Address Phone

Ross & Corinne Murry
Property Owner Name (Please Print) Mailing Address Phone

3. Legal Description

Please provide an accurate legal description, tax account number(s), map, street address and location of all private real properties that are the subject of this application.

Assessor Map & Tax Lot 18-05-08-00, Tax Lots 604 and 605

Street Address 86722 Central Road, Eugene, OR Legal Description Attached X

4. Identification of Imposed Land Use Regulation

Please identify the Lane Code section or other land use regulation imposed on the private real property that is alleged to restrict the use of the subject property in a manner that reduces the fair market value. Include the date the regulation was first adopted, enforced or applied to the subject property and a written statement addressing all the criteria in LC 2.7 40(1).

LC 16.212, Lane County Rural Comprehensive Plan Goal 3 Policies, LC 13.005, and 13.050(1)-(2)

These regulations were first adopted and applied to the subject property on March 30, 1984.

See CBM Family LLC Attachment 3, James A. Mann LLC History of L. C. Land Use Regulations Report

5. Title Report

Please attach a Preliminary Title Report showing title history and continuous ownership traced to the earliest family member ownership, the date of current owner(s) acquisition and all current interests of record for the subject property, issued within 30 days of the application submittal. Provide copies of relevant deeds.

See CBM Family LLC Attachment 1, Western Pioneer Title Co. of Lane County Preliminary Title Report

& CBM Family LLC Attachment 2, "CBM FAMILY LLC" REGIST. & OPERATING AGREEMENT

6. Appraisal/Regulatory Effect

Please provide one original, signed appraisal prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon addressing the requirements of provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004) and indicating the amount of the alleged reduction in fair market value by showing the difference in the fair market value of the property before and after the application of the challenged regulations as of the date the owner makes written demand for compensation. Include all of the supporting methodology, assumptions and calculations affecting the appraisal.

See CBM Family LLC Attachment 4, Pohll & Associates Inc. Appraisals of the Subject Property

Before the challenged regulations the estimated market value is "\$225,000 each ten acres" or 19 x

\$225,000 = \$4,275,000. After the challenged regulations the estimated market value is \$284,500.

7. Leases, Covenants, Conditions and Restrictions

Please provide copies of any leases or covenants, conditions and restrictions applicable to the subject property.

See CBM Family LLC Attachment 1, Western Pioneer Title Co. of Lane County Preliminary Title Report

8. Identification of Relief Sought

Please specifically indicate what relief is being sought, either a monetary value of the claim describing the reduction in fair market value of the property or the specific use authorization sought in any waiver of the land use regulation.

The relief sought is a waiver of the regulations, mentioned in 4. above, and the ability to divide the subject property into four parcels and to have a dwelling and accessory residential, farm and forest structures and uses on each parcel.

I (we) have completed all of the attached application requirements and certify that all statements are true and accurate to the best of my (our) knowledge and belief. I am (We are) authorized to submit this application on behalf of all those with an interest in the property and all the owner(s) agree to this claim as evidenced by the signature of those owner(s) below. Include additional signatures, as necessary.

Entry by County or its designee upon the subject property is authorized by the owner(s) and the owner(s) consent to the application for claims under provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004).

CBM FAMILY LLC By: *Crisse Murray*

Crisse Murray
Owner(s) Signature

8-22-2005
Date

[Signature]
Applicant/Agent Signature

8-22-2005
Date

The following contacts are provided to assist you in finding the necessary information for this application.

For zoning and land use information, please contact the Land Management Division at 682-3577.
This phone contact is a message line. Please leave a message and a Planner will return your call.
For deeds and records information, please contact Lane County Deeds and Records at 682-3654.

August 22, 2005

Lane County Board of Commissioners
Lane County Public Service Building/Courthouse
125 East 8th Ave.
Eugene, OR 97401

Re: BM37 Application of CBM Family LLC
Map 18-05-08 Tax Lots 604 and 605, Referred to as "The Ross Ranch"

Dear Commissioners,

My name is Dennis Bottem. I represent the CBM Family LLC in this application. On August 27, 1974, Ross and Corinne Murry purchased this property, referenced above and referred to as "The Ross Ranch", by a land sales contract and have continuously owned it since that time. Ross and Corinne Murry are members of the CBM Family LLC that now owns The Ross Ranch. The Ross Ranch contains a total of approximately 196 acres and is located off of Central Road, about three miles south of Fern Ridge Reservoir and about five and a half miles west of Eugene.

The Ross Ranch was not zoned or under the jurisdiction of an adopted comprehensive plan when Ross and Corinne Murry purchased it on August 27, 1974. On August 27, 1974, use and development of The Ross Ranch would have been subject to compliance with the minimal requirements in Lane Code including LC 9.700-.765 for unzoned areas. The Ross Ranch is now designated by the Lane County Rural Comprehensive Plan as "Agricultural" land, is zoned Exclusive Farm Use 40, E40, and is subject to the land use restrictions of LC 16.212.

The Ross Ranch could be divided into 19, 10 acre lots. The attached appraisal is based on that premise. However, the owners request a division into only 4 lots and will waive their Measure 37 rights to any further division. There are already 2 residences on the property, so this would only add 2 more residences, instead of 17 more residences. The owners of The Ross Ranch request in this BM37 application that the Lane County Board of Commissioners waive the current Lane County land use regulations on The Ross Ranch and that the owners have the ability to divide the Ross Ranch into four lots or parcels and to have a dwelling on each lot or parcel in accordance with the minimal requirements of Lane Code in effect on August 27, 1974. This BM37 application includes the following substantial, supporting documentation demonstrating that the application complies with LC 2.740:

- A preliminary title report and CMB Family LLC information documenting the continuous ownership of The Ross Ranch by Ross and Corinne Murry since August 27, 1974 (application Attachments 1 and 2);
- A report on the history of the applicable land use regulations applicable to The Ross Ranch from James A. Mann LLC (application Attachment 3) that identifies the challenged land use regulations that were adopted after the current owner of the property became the owner. The regulations, included in the requested waiver, are not Exempt Land Use Regulations under LC 2.710; and
- An appraisal from Pohl & Associates, Inc. (application Attachment 4) showing the estimated market value of The Ross Ranch before the challenged regulations (\$4,275,000) and the estimated market value of the Ross Ranch under today's land use regulations (\$225,000).

The enactment and implementation of BM37 establishes a sense of fairness and respect for property rights that was lost when the current Lane County land use regulations were applied to the subject property. The owner in this BM37 application is requesting the ability to create only four parcels and four dwellings (including two existing dwellings) when the request could be for more. The appraisal of \$4,275,000 is based on nineteen ten acre lots and not the four lots proposed by the owner that will result in a lower market. The approval of this BM37 application would be consistent with the spirit and letter of BM37. Therefore, I request that the Lane County Board of Commissioners approve this application.

Sincerely,



Dennis Bottem
86724 Central Road, Eugene, Oregon 97402

601
18-5-8
601
7439440

MEMORANDUM OF AGREEMENT

By instrument in writing dated the 27th day of August, 1974, N. E. RITCHEY and BIRDIE G. RITCHEY, husband and wife, VENDOR, sold on written Land Sale Contract to ROSS MURRY and CORRINE MURRY, husband and wife, PURCHASER, the following described real property:

The Southwest quarter of the Northwest quarter; the Northwest quarter of the Southeast quarter; the North half of the Southwest quarter, and Government Lots 2, 3 and 4 of section 8, Township 18 South, Range 5 West of the Willamette Meridian;

EXCEPTING from said Lot 4 the following described portion:

Beginning at a point on the South line of Section 8, Township 18 South, Range 5 West of the Willamette Meridian, at a point 2042 feet West of the Southeast corner thereof and run thence East along said South Line 722 feet to the Southeast corner of Lot 4 of said section; thence North 1320 feet along the East line of said Lot 4 to the Northeast corner thereof; thence South 87° 30' West 593 feet along an existing fence to a fence corner North 5° 45' East of the point of beginning; thence South 5° 45' West 1300 feet, more or less, along an existing fence to the point of beginning in Lane County, Oregon;

ALSO EXCEPTING rights of the public in and to any portion thereof lying within the bounds of a county road.

Together with an easement appurtenant to the above-described premises over and through the South 20 feet of that portion of Lot 4 lying East of the above parcel and over and through the South 20 feet of the Southeast 1/4 of the Southeast 1/4

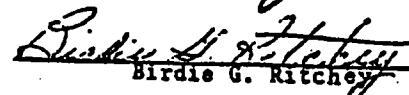
7439440

in Section 8, Township 18 South, Range 5 West of
the Willamette Meridian.

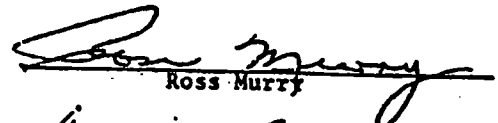
This Memorandum is executed to evidence and confirm
the Contract referred to above, and give notice of Purchaser's
interest therein. The actual consideration consists of other
property which is a part of the consideration.

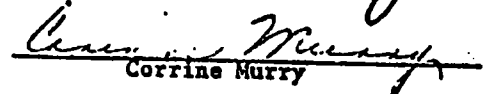
IN WITNESS WHEREOF, this Memorandum has been executed
in duplicate the day and year above written.


N. E. Ritchey


Birdie G. Ritchey

VENDOR


Ross Murry


Corrine Murry

PURCHASER

STATE OF OREGON }
County of Lane } ss.

August 22, 1974

Personally appeared the above named N. E. RITCHEY
and BIRDIE G. RITCHEY and acknowledged the foregoing
instrument to be their voluntary act and deed.

Before me:


Notary Public for Oregon
My Commission Expires: 3-19-78

Memorandum of Contract - 2

31

After recording, return to:
Arnold Gallagher Saydack
Percell Roberts & Potter
800 Willamette Street, Suite 800
Eugene, Oregon 97401

Until a change is requested,
mail all tax statements to:
CBM Family LLC
3610 Goodpasture Loop
Eugene, Oregon 97401

Division of Chief Deputy Clerk
Lane County Deeds and Records

2002-032921



\$31.00

00200302200200329200020020

04/26/2002 01:30:55 PM

RPR-DEED Cnt=1 Stn=8 CASHIER 08
\$10.00 \$11.00 \$10.00

BARGAIN AND SALE DEED

ROSS MURRY and CORINNE MURRY, husband and wife, Grantors, convey to CBM FAMILY LLC, an Oregon limited liability company, Grantee, the following-described real property:

Parcels 1 and 2, Land Partition Plat No. 94-P0611, filed December 6, 1994, Lane County, Oregon.

Together with any interest of the above-described property in an easement appurtenant to the above-described property granted by deed recorded on July 5, 1990, at Reel 1641R, Reception No. 9031556, Lane County Official Records.

The true consideration for this conveyance is other property or value given.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS, WHICH, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND WHICH LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON

1-BARGAIN AND SALE DEED

NAK - OMurry, Ross 150111Corby's LLC 150111-Bargain and Sale Deed (Partition) to LLC.wpd

ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND EXISTENCE OF FIRE PROTECTION FOR STRUCTURES.

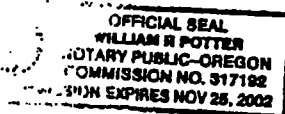
DATED: April 25, 2002.

Ross Murry
Ross Murry

Corinne Murry
Corinne Murry

STATE OF OREGON)
) ss.
COUNTY OF LANE)

This instrument was acknowledged before me on April 25, 2002, by Ross Murry and Corinne Murry.



William R. Potter
Notary Public for Oregon
My commission expires: 11-25-02

2-BARGAIN AND SALE DEED

NAK - OMurry, Ross 15011 NCorky's LLC 15011 - Bargain and Sale Deed (Parties) to LLC.wpd

CBM Family LLC BM37 Application

Attachment 2

CBM FAMILY LLC OPERATING AGREEMENT

PARTIES: MEMBERS:

CORINNE MURRY

ROSS MURRY

(each, a Member and collectively, the Members)

MANAGER:

CORINNE MURRY

DATE: March 22, 2002

AGREEMENTS:

1. Organization.

1.1 Formation. Effective on the filing of articles of organization with the Oregon Secretary of State, the Members form CBM Family LLC (Company) under the Oregon Limited Liability Company Act, as amended (Act).

1.2 Purpose. The Company may engage in any lawful business.

2. Capital Contributions.

2.1 Initial Contributions; Ownership Interests. When this Operating Agreement (Agreement) is fully signed, Corinne Murry shall contribute the assets listed on the attached Exhibit A. Corinne Murry hereby gifts 36,765 nonvoting units to Ross Murry. Thereafter, the Members shall hold the units in the Company (Ownership Interest) as follows:

| | |
|---------------|--|
| Corinne Murry | 3,225 voting units 24,510 nonvoting units |
| Ross Murry | 36,765 nonvoting units |

No interest will accrue on any contribution and no Member will have the right to withdraw or be repaid any contribution except as provided in this Agreement.

2.2 No Additional Contributions Required. No Member shall be required to contribute any additional capital to the Company.

3. Management of the Company Business.

3.1 Management. The business and affairs of the Company shall be managed by the Manager. Except as otherwise provided in this Agreement, the Manager shall be responsible for the day-to-day operations and management of the Company and shall have the authority to take all actions and sign all agreements and other documents on behalf of the Company. The Manager shall be paid a reasonable management fee. So long as Corinne Murry or Ross Murry is the Manager, such fee shall be determined by the Manager each year. If any other person is the Manager, such fee shall be determined by unanimous agreement of all voting and nonvoting units.

3.2 Number, Qualifications and Term of Manager. There shall be one Manager. The Manager may be an individual or an entity and need not be a Member. The Manager shall hold office until the Manager resigns, dies or is removed or replaced.

3.3 Initial Manager. The initial Manager is Corinne Murry.

3.4 Resignation. The Manager may resign at any time by giving written notice to the Members. The resignation of the Manager who is also a Member shall not affect the Manager's rights as a Member or cause the Manager's withdrawal as a Member of the Company.

3.5 Removal. Corinne Murry may be removed by the Members at any time, with cause. Any other Manager may be removed by the Members at any time, with or without cause.

3.6 Indemnification. The Company shall indemnify the Manager for any liability incurred by the Manager in connection with the Company's business to the fullest permitted by the Act. The Company may also reimburse or indemnify the Manager for reasonable expenses incurred in connection with the Company's business.

3.7 Conflict of Interest. The Manager will not violate a duty or obligation to the Company merely by conduct furthering the Manager's own interests. The Manager may lend money to and transact other business with the Company. The rights and obligations of the Manager who lends money to or transacts business with the Company are the same as those of a person who is not a Manager, subject to other applicable law. No transaction with the Company shall be voidable solely because the Manager has a direct or indirect interest in the transaction if the transaction is approved or ratified by the Members, after full disclosure of the Manager's interest in the transaction.

4. Rights and Duties of Members.

4.1 Membership Rights. Each Member shall have the right to information concerning the Company and shall be entitled to one vote for each voting unit owned by the Member on each

matter submitted to the Members by the Manager and on each of the following matters, which shall be decided only by the Members holding voting units (collectively, Membership Rights):

4.1.a. Admission of a new Member.

4.1.b. Amendment of this Agreement.

4.1.c. Election or removal of a Manager.

4.1.d. The sale of substantially all the assets of the Company.

4.1.e. Except as otherwise provided in this Agreement, the complete liquidation and dissolution of the Company.

Each Member shall have one vote for each voting unit owned. Except as provided above, no Member acting in the Member's capacity as a Member shall have the right or power to participate in the management of the Company or to act for or bind the Company in any way.

4.2 Meetings. The Members may provide, by resolution, the time and place for holding meetings. In addition, Members holding at least 50 percent of the Ownership Interests may call a special meeting on at least two days' notice to the other Members. Meetings may be held by conference telephone or any other means of communication by which all Members participating may simultaneously hear each other during the meeting.

4.3 Action; Voting. The Members may take action at a meeting or without a meeting. Unless otherwise provided in this Agreement:

4.3.a. At a meeting where a quorum is present, the affirmative vote of Members holding more than 50 percent of all voting units shall be the act of the Members. A quorum shall consist of Members holding more than 50 percent of all voting units (Majority).

4.3.b. Action may be taken without a meeting if effected by one or more written consents signed by all of the Members holding voting units. The action taken shall be effective when the last Member signs the consent, unless the consent specifies a different effective date.

4.4 Liability of Members. Except as otherwise provided by law, a Member will not be personally liable, merely by reason of being a Member, for any debt, obligation or liability of the Company beyond the Member's initial contribution, any additional contributions agreed to by the Member or otherwise provided in this Agreement, the Member's share of accumulated but undistributed net profits and any distributions (including the return of any contributions) made to the Member that are required by law to be returned to the Company.

4.5 Indemnification. The Company shall indemnify each Member for any liability incurred by the Member in connection with the Company's business to the fullest extent permitted by the Act. The Company may also reimburse or indemnify a Member for reasonable expenses incurred in connection with the Company's business if approved by the Manager.

4.6 Conflicts of Interest. A Member will not violate a duty or obligation to the Company merely by conduct furthering the Member's own interests. A Member may lend money to and transact other business with the Company. The rights and obligations of a Member who lends money to or transacts business with the Company are the same as those of a person who is not a Member, subject to other applicable law. No transaction with the Company shall be voidable solely because a Member has a direct or indirect interest in the transaction, if the transaction is approved or ratified by the Manager after full disclosure of the Member's interest in the transaction.

5. Allocations.

5.1 Profits and Losses. Except as may be required by Section 704(c) of the Internal Revenue Code of 1986, as amended (IRC), the Company's profits and losses, and all items of income, gain, loss, deduction and credit (collectively, Tax Items), shall be allocated among the Members in proportion to their Ownership Interests.

5.2 Change in Interest During Year. If during any taxable year of the Company there is a change in any Member's Ownership Interest, each Member's share of Tax Items for the year shall be determined, unless the Members agree otherwise, by (a) assigning the Tax Items to the portions of the taxable year before and after the change based on the portion of the taxable year that has elapsed before the change and (b) allocating the Tax Items to Members according to their varying interests during the year. The assignment and allocation shall be made in a manner that complies with IRC § 706(c) and (d) and the Treasury regulations (Treas. Reg.) thereunder.

6. Distributions.

6.1 Priority Distribution. On an annual basis, before any distributions are made to any other Members, Corinne Murry shall receive a priority distribution equal to the lesser of (a) \$100,000, plus a percentage increase equal to the percentage increase, if any, in the Consumer Price Index (as defined herein) for the last day of the year over the Consumer Price Index last officially published prior to December 31, 2001, and (b) the next taxable income of the Company for such year. The basis for determining the increase shall be the Consumer Price - All Urban Consumers, U.S. All Items, 1982-84 = 100, or if unavailable, an appropriate replacement index selected by the Manager.

6.2 Distributions for Taxes. If funds are reasonably available, the Company shall distribute to Members at least quarterly the amount determined by the Manager as sufficient to pay income taxes on the Members' shares of the Company's taxable income.

6.3 Additional Distributions. The Company shall make additional distributions as determined by the Manager, taking into account the Company's business and financial needs.

6.4 Restriction on Distributions. Unless otherwise permitted by the Act, no distribution may be made to any Member if it is determined by the Manager that, after giving effect to the distribution, either (a) the Company would not be able to pay its debts as they become due in the ordinary course of business or (b) the fair value of the Company's total assets would not at least equal its total liabilities.

6.5 Sharing of Distributions. Distributions to Members shall be shared by the Members in proportion to their Ownership Interests on the date the distribution is approved by the Manager. Distributions on dissolution of the Company shall be allocated among the Members in proportion to their positive Capital Account balances, as provided in Paragraph 11 (*Tax Matters*).

7. Assignees and Additional Members.

7.1 Rights of Assignees. If a Member assigns all or any portion of the Member's Ownership Interest to a non-Member, the assignee (Assignee) will have no Membership Rights unless admitted as a Member. The Assignee will have only the right to receive the distributions and allocations of Tax Items attributable to that Ownership Interest.

7.2 Rights and Liabilities of Assignor. Upon assignment of a Member's entire Ownership Interest, the assignor will cease to have Membership Rights. The assignor shall not be relieved of any liability to the Company that may have existed before the assignment and shall not be relieved of any fiduciary duties the assignor otherwise continues to owe to the Company or the other Members. Upon assignment of a partial Ownership Interest, the assignor shall have Membership Rights only to the extent of the Ownership Interest retained.

7.3 Additional Members. Except as otherwise provided in this Agreement, Assignees or other persons may be admitted as Members only with the prior written consent of all the Members, which consent may be arbitrarily and unreasonably withheld. As conditions to being admitted, a new Member shall deliver to the Company a written agreement to be bound by this Agreement and (unless the new Member is an Assignee) shall make a capital contribution in an amount reasonably required by the other Members. On admission of a new Member and determination of the new Member's Ownership Interest, the existing Members' Ownership Interests shall be adjusted proportionately. An Assignee who receives an Ownership Interest from the only remaining Member of the Company shall automatically be admitted as a Member.

8. Restrictions on Transfer. Restrictions on transfer of Ownership Interests, and related matters, shall be as set forth on the attached Exhibit B, which is incorporated herein by reference. All references in this Agreement to Paragraph 8 shall be to the corresponding paragraph of Exhibit B.

9. Termination of Membership.

9.1 Termination. A person shall cease to be a Member on the occurrence of any of the following events:

9.1.a. The Member's withdrawal, which must be on six months' notice to the remaining Members if done without the remaining Members' consent.

9.1.b. The Member's expulsion by a court as provided in the Act.

9.1.c. The bankruptcy of the Member.

9.1.d. The dissolution or other event terminating the Member's existence, if the Member is a legal entity.

9.1.e. The death of the Member, if the Member is a natural person.

9.1.f. Assignment of the Member's entire Ownership Interest.

9.1.g. As otherwise provided in the Act.

9.2 Rights of Former Member. A person whose membership in the Company has terminated shall be considered an Assignee of that person's Ownership Interest, and shall have all the rights, duties and obligations of an Assignee described in Paragraph 7.1 (*Rights of Assignees*).

10. Dissolution and Winding Up.

10.1 Dissolution. The Company shall be dissolved and its affairs wound up on the occurrence of any of the following events:

10.1.a. The consent of all the Members holding over 50 percent of all voting units.

10.1.b. The latest date of dissolution, if any, stated in the Company's Articles of Organization.

10.1.c. At such time as the Company has no Members.

10.1.d. The administrative dissolution of the Company by the Oregon Secretary of State, unless the Company is reinstated as provided in the Act.

10.1.e. The entry of a decree of judicial dissolution under the Act.

10.2 Effect of Dissolution. On dissolution, the Company shall cease carrying on (as distinguished from the winding up of) the Company's business. However, the Company's existence will continue until the winding up of the Company's affairs is completed.

10.3 Distribution of Assets on Dissolution. On winding up of the Company, the Company's property shall be distributed in the following order:

10.3.a. To creditors, including Members and former Members who are creditors, to the extent permitted by law, in satisfaction of Company liabilities other than liabilities for distributions to Members due under this Agreement.

10.3.b. To Members and former Members in satisfaction of the Company's obligations for distributions due under this Agreement.

10.3.c. To Members according to Members' positive Capital Account balances, as provided in Paragraph 11 (*Tax Matters*).

10.4 Winding up and Articles of Dissolution. The winding up of the Company shall be completed when all of the Company's debts, liabilities and obligations have been paid and discharged or reasonable adequate provision has been made therefor, and all of the Company's remaining property and assets have been distributed to the Members. On completion of winding up of the Company, the Manager shall deliver Articles of Dissolution to the Oregon Secretary of State for filing.

11. Tax Matters.

11.1 Capital Accounts. The Company shall maintain a capital account (Capital Account) for each Member on a cumulative basis in accordance with the federal income tax accounting principles in Treas. Reg. § 1.704-1(b)(2)(iv) or any successor provision.

11.2 Liquidating Distributions. If any Member's interest in the Company is liquidated within the meaning of Treas. Reg. § 1.704-1(b)(2)(ii)(g), liquidating distributions shall be made, as provided in Treas. Reg. § 1.704-1(b)(2)(ii)(b)(2), in accordance with that Member's positive Capital Account balance, determined after taking into account all Capital Account adjustments for the Company's taxable year during which the liquidation occurs by the later of the end of that taxable year or within 90 days after the date of liquidation.

11.3 Election to Adjust Basis. The Members may cause the Company to file an election in accordance with the applicable Treas. Reg. under IRC § 754 to cause the basis of the Company's assets to be adjusted for federal income tax purposes as provided by IRC § 734(b) or 743(b).

11.4 Tax Matters Partner. The Members shall designate one Member as the "tax matters partner" for the Company in accordance with the IRC.

12. Miscellaneous Provisions.

12.1 No Partnership Intended for Non-tax Purposes. The Members have formed the Company under the Act, and do not intend to form a partnership under either the Oregon Uniform Partnership Act or the Oregon Uniform Limited Partnership Act. The Members do not intend to be partners to one another or as to any third party. To the extent any Member, by word or action, represents to another person that the other Members are partners or that the Company is a partnership, the Member making the wrongful representation shall be liable to the other Members who incur personal liability by reason of the wrongful representation.

12.2 Rights of Creditors and Third Parties. The Members are entering into this Agreement for their exclusive benefit and the benefit of their respective heirs, successors and assigns. This Agreement is not intended for the benefit of any creditor or any other person.

12.3 Successors and Assigns. This Agreement shall be binding on and inure to the benefit of the parties and their respective successors, assigns, heirs and legal representatives. However, nothing in this paragraph shall be construed as modifying in any way the transfer restrictions in this Agreement.

12.4 Attorneys' Fees. If any legal proceeding is commenced to enforce or interpret any provision of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees at trial and on any appeal, in addition to the costs and disbursements allowed by law.

12.5 Notices. Any notices required or permitted under this Agreement shall be in writing and shall be deemed effectively given (a) when personally delivered to the party notified; (b) two days after deposit in the United States mail, by certified or registered mail, postage prepaid, return receipt requested; (c) when transmitted by e-mail; or (d) when transmitted by fax, with confirmed transmission; in any case addressed to the party to be notified at the address shown on the Company's records.

12.6 Severability. If any provision of this Agreement is held to be invalid, illegal or unenforceable by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.


12.7 Amendment. Any amendment to this Agreement must be in a writing signed by all Members.

12.8 Entire Agreement. This Agreement and the exhibits to this Agreement embody the parties' entire agreement and understanding with respect to the transactions contemplated by this Agreement and supersede all prior agreements and understandings, written or oral, relating to matters provided for in this Agreement.

12.9 Interpretation. This Agreement shall be governed by and construed according to the laws of the state of Oregon. The singular and plural shall each be deemed to include the other. Words of any gender shall include the other gender. The Table of Contents, captions and Appendices are inserted only for convenience and have no substantive effect.


12.10 Counterparts. This Agreement may be signed in more than one counterpart, each of which shall be deemed to be an original and all of which together shall constitute one and the same agreement, even if all of the parties have not signed the same counterpart.

MEMBERS:


Corinne Murry


Ross Murry

MANAGER:


Corinne Murry