

38966

MTC 1396  
TRUST DEED

Vol. 77 Page 22118

THIS TRUST DEED, made this 31st day of Oct. 1977, between  
 Neal E. Higgins and Mollie, husband and wife, as Grantor,  
 Mountain Title Co. as Trustee,  
 and South Valley State Bank, Klamath Falls, Oregon, as Beneficiary,

WITNESSETH:  
 Grantor irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property  
 in Klamath County, Oregon, described as:

Lot 9 of Lloyd's Tracts, According To The Official Plat Thereof On File In The  
 Record Of Klamath County, Oregon

together with all and singular the tenements, hereditaments and appurtenances and all other rights thereunto belonging or in anywise  
 now or hereafter appertaining, and the rents, issues and profits thereof and all fixtures now or hereafter attached to or used in connec-  
 tion with said real estate.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the  
 sum of One thousand nine hundred and no/100 Dollars, with interest

thereon according to the terms of a promissory note of even date herewith, payable to beneficiary or order and made by grantor, the  
 final payment of principal and interest hereof, if not sooner paid, to be due and payable 5-5-1980

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of said note  
 becomes due and payable. In the event the within described property, or any part thereof, or any interest therein is sold, agreed to be  
 sold, conveyed, assigned or alienated by the grantor without first having obtained the written consent or approval of the beneficiary,  
 then, at the beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed therein, or  
 herein, shall become immediately due and payable.

The above described real property is not currently used for agricultural, timber or grazing purposes.

To protect the security of this trust deed, grantor agrees:  
 1. To protect, preserve and maintain said property in good condition  
 and repair; not to remove or demolish any building or improvement thereon;  
 not to commit or permit any waste of said property.

2. To complete or restore promptly any building or improvement thereon,  
 destroyed (hereon, and pay when due all costs incurred therefor, damaged or  
 manner any building or improvement which may be constructed, damaged or  
 destroyed (hereon, and pay when due all costs incurred therefor, damaged or  
 3. To comply with all laws, ordinances, regulations, covenants, condi-  
 tions and restrictions affecting said property, if the beneficiary so requests,  
 join in executing such financing statements pursuant to the Uniform Commer-  
 cial Code as the beneficiary may require and to pay for filing same in the  
 proper public office or offices, as well as the cost of all lien searches made  
 by filing officers or searching agencies as may be deemed desirable by the  
 beneficiary.

4. To provide and continuously maintain insurance on the buildings and  
 now or hereafter erected on the said premises against loss or damage by fire  
 and such other hazards as the beneficiary may from time to time require, in  
 an amount not less than \$\_\_\_\_\_.  
 policies of insurance shall be delivered to the beneficiary with less payable to the latter; all  
 if the grantor shall fail for any reason to procure any such insurance and  
 deliver said policies to the beneficiary at least fifteen days prior to the expi-  
 ration of any policy of insurance now or hereafter placed on said buildings,  
 the beneficiary may procure the same at grantor's expense. The amount  
 collected under any fire or other insurance policy may be applied by benefi-  
 ciary upon any indebtedness secured hereby and in such order as beneficiary  
 may determine, or at option of grantor, the entire amount so collected,  
 may be used to pay any or all of the obligations secured hereby, or to  
 not cure or waive any default or notice of default hereunder or invalidate any  
 act done pursuant to such notice.

5. To keep said premises free from construction liens and to pay all  
 taxes, assessments and other charges that may be levied or assessed upon or  
 against said property before any part of such taxes, assessments and other  
 charges become past due or delinquent and promptly deliver receipts therefor  
 to beneficiary. Should the grantor fail to make payment of any taxes, assess-  
 ments, insurance premiums, liens or other charges payable by grantor, assess-  
 ment by direct payment or by providing beneficiary with funds with which to  
 make such payment, beneficiary may, at its option, make payment thereof,  
 and the amount so paid, with interest at the rate set forth in the note secured  
 hereby, together with the obligations described in paragraphs 6 and 7 of this  
 trust deed, shall be added to and become a part of the debt secured by this  
 deed, without waiver of any rights arising from breach of any of the  
 covenants hereof and for such payments, with interest as aforesaid, the prop-  
 erty hereinafter described, as well as the grantor, shall be bound to the  
 same extent that the grantor is bound to the payment of the obligations here-  
 in described, and all such payments shall be immediately due and payable with-  
 out notice, and the nonpayment thereof shall, at the option of the beneficiary,  
 constitute a breach of this trust deed.

6. To pay all costs, fees and expenses of this trust including the cost  
 of title search as well as the other costs and expenses of the trustee incurred  
 in connection with or in enforcing this obligation and trustee's and attorney's  
 fees actually incurred.

7. To appear in and defend any action or proceeding purporting to  
 affect the security rights or powers of beneficiary or trustee; and in any suit,  
 action or proceeding in which the beneficiary or trustee may appear, including  
 any suit for the foreclosure of this deed, to pay all costs and expenses, in-  
 cluding evidence of title and the beneficiary's or trustee's attorney's fees, the  
 amount of attorney's fees mentioned in this paragraph 7 in all cases shall be  
 fixed by the trial court and in the event of an appeal from any judgment or  
 decree of the trial court, grantor further agrees to pay such sum as the ap-  
 pellate court shall adjudge reasonable as the beneficiary's or trustee's attor-  
 ney's fees on such appeal.

It is mutually agreed that:

8. In the event that any portion or all of said property shall be taken  
 under the right of eminent domain or condemnation, beneficiary shall have the  
 right, if it so elects, to require that all or any portion of the monies payable  
 as compensation for such taking, which are in excess of the amount required  
 to pay all reasonable costs, expenses and attorney's fees necessarily paid or  
 incurred by grantor in such proceedings, shall be paid to beneficiary and  
 applied by it first upon any reasonable costs and expenses and attorney's fees,  
 both in the trial and appellate courts, necessarily paid or incurred by benefi-  
 ciary in such proceedings, and the balance applied upon the indebtedness  
 secured hereby; and grantor agrees, at its own expense, to take such actions  
 and execute such instruments as shall be necessary in obtaining such com-  
 pensation, promptly upon beneficiary's request.

9. At any time and from time to time upon written request of benefi-  
 ciary, payment of its fees and presentation of this deed and the note for  
 endorsement (in case of full reconveyances, for cancellation), without affecting  
 the liability of any person for the payment of the indebtedness, trustee may

(a) consent to the making of any map or plat of said property; (b) join in  
 granting any easement or creating any restriction thereon; (c) join in any  
 subdivision or other agreement affecting this deed or the lien or charge  
 thereon; (d) reconvey, without warranty, all or any part of the property. The  
 grantee in any reconveyance may be described as the "person or persons  
 legally entitled thereto" and the recitals therein of any matters or facts shall  
 be conclusive proof of the truthfulness thereof. Trustee's fees for any of the  
 services mentioned in this paragraph shall be not less than \$5.

10. Upon any default by grantor hereunder, beneficiary may at any  
 time without notice, either in person, by agent or by a receiver to be ap-  
 pointed by a court, and without regard to the adequacy of any security for  
 the indebtedness hereby secured, enter upon and take possession of said prop-  
 erty or any part thereof, in its own name sue or otherwise collect the rents,  
 issues and profits, including those past due and unpaid, and apply the same,  
 less costs and expenses of operation and collection, including reasonable attor-  
 ney's fees upon any indebtedness secured hereby, and in such order as benefi-  
 ciary may determine.

11. The entering upon and taking possession of said property, the  
 collection of such rents, issues and profits, or the proceeds of fire and other  
 insurance policies or compensation or awards for any taking or damage of the  
 property, and the application or release thereof as aforesaid, shall not cure or  
 waive any default or notice of default hereunder or invalidate any act done  
 pursuant to such notice.

12. Upon default by grantor in payment of any indebtedness secured  
 hereby or in his performance of any agreement hereunder, the beneficiary may  
 declare all sums secured hereby immediately due and payable. In such an event  
 and if the above described real property is currently used for agricultural,  
 timber or grazing purposes, the beneficiary may proceed to foreclose this trust  
 deed in equity, as a mortgage in the manner provided by law for mortgage  
 foreclosures. However, if said real property is not so currently used, the benefi-  
 ciary at his election may proceed to foreclose this trust deed by advertisement  
 and sale. In the latter event the beneficiary or the trustee shall execute and  
 cause to be recorded his written notice of default and his election to sell the  
 said described real property to satisfy the obligations secured hereby, where-  
 upon the trustee shall fix the time and place of sale, give notice thereof as then  
 required by law and proceed to foreclose this trust deed in the manner pro-  
 vided in ORS 86.740 to 86.795.

13. Should the beneficiary elect to foreclose by advertisement and sale  
 then after default or any time prior to five days before the date set by the  
 trustee for the trustee's sale, the grantor or other person so privileged by  
 ORS 86.760, may pay to the beneficiary or his successors in interest, respec-  
 tively, the entire amount then due under the terms of the trust deed and the  
 obligation secured thereby (including costs and expenses actually incurred in  
 enforcing the terms of the obligation and trustee's and attorney's fees not ex-  
 ceeding \$50 each) other than such portion of the principal as would not then  
 be due had no default occurred, and thereby cure the default, in which event  
 all foreclosure proceedings shall be dismissed by the trustee.

14. Otherwise, the sale shall be held on the date and at the time and  
 place designated in the notice of sale. The trustee may sell said property either  
 in one parcel or in separate parcels and shall sell the parcel or parcels at  
 auction to the highest bidder for cash, payable at the time of sale. Trustee  
 shall deliver to the purchaser its deed in form as required by law conveying  
 the property so sold, but without any covenant or warranty, express or im-  
 plied. The recitals in the deed of any matters of fact shall be conclusive proof  
 of the truthfulness thereof. Any person, excluding the trustee, but including  
 the grantor and beneficiary, may purchase at the sale.

15. When trustee sells pursuant to the powers provided herein, trustee  
 shall apply the proceeds of sale to payment of (1) the expenses of sale, in-  
 cluding the compensation of the trustee and a reasonable charge by trustee  
 attorney, (2) to the obligation secured by the trust deed, (3) to all persons  
 having recorded liens subsequent to the interest of the trustee in the trust  
 deed as their interests may appear in the order of their priority and (4) the  
 surplus, if any, to the grantor or to his successor in interest entitled to the  
 surplus.

16. For any reason permitted by law beneficiary may from time to  
 time appoint a successor or successors to any trustee named herein or to any  
 successor trustee appointed hereunder. Upon such appointment, and without  
 conveyance to the successor trustee, the latter shall be vested with all the  
 powers and duties conferred upon any trustee herein named or appointed  
 hereunder. Each such appointment and substitution shall be made by written  
 instrument executed by beneficiary, containing reference to this trust deed  
 and its place of record, which, when recorded in the office of the County  
 Clerk or Recorder of the county or counties in which the property is situated,  
 shall be conclusive proof of proper appointment of the successor trustee.

17. Trustee accepts this trust when this deed, fully executed and  
 acknowledged is made a public record as provided by law. Trustee is not  
 obligated to notify any party hereto of pending sale under any other deed of  
 trust or of any action or proceeding in which grantor, beneficiary or trustee  
 shall be a party unless such action or proceeding is brought by trustee.

NOTE: The Trust Deed Act provides that the trustee hereunder must be either an attorney, who is an active member of the Oregon State Bar, a bank, trust company  
 or savings and loan association authorized to do business under the laws of Oregon, the United States, a title insurance company authorized to insure title to real  
 property of this state, its subsidiaries, affiliates, agents or branches, or the United States or any agency thereof.

The grantor covenants and agrees to and with the beneficiary and those claiming under him, that he is lawfully seized in fee simple of said described real property and has a valid, unencumbered title thereto

Except first Trust Deed to First National Bank of Oregon

and that he will warrant and forever defend the same against all persons whomsoever.

The grantor warrants that the proceeds of the loan represented by the above described note and this trust deed are:

(b) XXXXXXXXXXXXXXXXXX

*This deed applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns. The term beneficiary shall mean the holder and owner, including pledgee, of the contract secured hereby, whether or not named as a beneficiary herein. In construing this deed and whenever the context so requires, the masculine gender includes the feminine and the neuter, and the singular number includes the plural.*

IN WITNESS WHEREOF, said grantor has hereunto set his hand the day and year first above written.

**IMPORTANT NOTICE:** Delete, by lining out, whichever warranty (a) or (b) is not applicable; if warranty (a) is applicable and the beneficiary is a creditor or such word is defined in the Truth-in-Lending Act and Regulation Z, the beneficiary **MUST** comply with the Act and Regulation by providing the required disclosures; for this purpose, if this instrument is to be a **FIRST** lien to finance the purchase of a dwelling, use **Stevens-Ness Form No. 1305 or equivalent**; if this instrument is **NOT** to be a first lien, use **Stevens-Ness Form No. 1306**, or equivalent. If compliance with the Act not required, disregard this notice.

(If the signer of the above is a corporation, use the form of acknowledgment opposite.)

JOBS 93.490

STATE OF OREGON.

County of Klamath

10-31- 1977

Personally appeared the above named,

Neal E. Higgins & Mollie M. Higgins

and acknowledged the foregoing instru-  
ment to be Thier voluntary act and deed.

(OFFICIAL  
SEAL)

Notary Public for Oregon

My commission expires: 1-24-81

STATE OF OREGON, County of

*Personally appeared*

each for himself and not one for the other, did say that the former is the president and that the latter is the secretary of

and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.

Before me:

Notary Public for Oregon  
My commission expires:

(OFFICIAL  
SEAL)

REQUEST FOR FULL RECONVEYANCE

To be used only when obligations have been paid

**TO:**

*Trustee*

The undersigned is the legal owner and holder of all indebtedness secured by the foregoing trust deed. All sums secured by said trust deed have been fully paid and satisfied. You hereby are directed, on payment to you of any sums owing to you under the terms of said trust deed or pursuant to statute, to cancel all evidences of indebtedness secured by said trust deed (which are delivered to you herewith together with said trust deed) and to reconvey, without warranty, to the parties designated by the terms of said trust deed the estate now held by you under the same. Mail reconveyance and documents to

**DATED:**

19

**Beneficiary**

# TRUST DEED

(FORM No. 8811)

STEVENS-NESS LAW PUB. CO., PORTLAND, ORE

Grantor

**Beneficiary**

AFTER RECORDING RETURN TO

11 TC

STATE OF OREGON

County of ..... Klamath

I certify that the within instrument was received for record on the 14th day of November, 1977, at 3:04 o'clock P. M., and recorded in book M77 on page 22118 or as file/reel number 38964.

Record of Mortgages of said County.  
Witness my hand and seal of  
County affixed.

Wm. D. Milne  
County Clerk

By Bernetha W. Litch Deputy

**Free \$6.00**