

39681

TRUST DEED

Vol. 71 Page 23117

THIS TRUST DEED, made this 2nd day of November, 1977, between David B. Hammond and Janice J. Hammond, Husband and Wife, B. J. Matzen, City Attorney, and City of Klamath Falls, A Municipal Corporation

1977, between
as Grantor,
as Trustee,
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 7, Block 6, Tract 1140, Lynnewood First Addition, in the City of Klamath Falls, Klamath County, Oregon, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, free of all encumbrances except reservations, restrictions, easements and rights-of-way of record and those apparent upon the land.

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 connection with said real estate.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the sum of Ten Thousand Seven Hundred Fifty-five 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 December 2, 1987. 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, assigned or conveyed, the beneficiary may require and to pay for the same, and the grantor, or any interest therein is sold, assigned or conveyed, then, at the beneficiary's option, all obligations secured by this instrument, irrespective of the written consent or approval of the beneficiary, 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 and in good and workmanlike manner any building or improvement which may be constructed, damaged or destroyed thereon, and pay therefor all costs incurred therefor.

3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting said property, if the beneficiary so requests, to cause such financing statements pursuant to the Uniform Commercial Code as the beneficiary may require and to pay for the same in the 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 such other erected on the said premises against loss or damage by fire for an amount not less than \$100,000. The beneficiary may from time to time require, in policies acceptable to the beneficiary, with loss payable to the latter; all if the grantor shall fail to do so, as soon as insured; deliver said policies to the beneficiary at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on said buildings, collected under any fire or other insurance policy may be applied by beneficiary upon any indebtedness secured hereby and in such order as beneficiary may determine, or at option of beneficiary the entire amount so collected, or 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, assessments, insurance premiums, liens or other charges payable by grantor, either 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 paragraph 6 and 7 of this trust deed, shall be added to and become a part of the debt secured by this trust deed, without waiver of any rights arising from breach of any of the covenants hereof and for such payments, with interest as aforesaid, the property hereunder described, as well as the grantor, shall be bound to the described, and all such payments shall be immediately due and payable without 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 suit for the foreclosure of this deed, to pay all costs and expenses, including 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 appellate court shall adjudge reasonable as the beneficiary's or trustee's attorney's fees on such appeal.

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 both in the trial and appellate courts, necessarily paid or incurred by beneficiary 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 compensation, promptly upon beneficiary's request.

9. At any time and from time to time upon written request of beneficiary, payment of its fees and presentation of this deed and the note for endorsement (in case of full reconveyance, 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 all 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 appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in its own name sue or otherwise collect the rents, profits and issues, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees upon any indebtedness secured hereby, and in such order as beneficiary 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 the 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 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 foreclosure. However if said real property is not so currently used, the beneficiary at his election may proceed to foreclose this trust deed in equity as a mortgage or direct the trustee to foreclose this trust deed in equity as a 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, whereupon 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 provided in ORS 86.740 to 86.795.

13. Should the beneficiary elect to foreclose by advertisement and sale then after default at 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, respectively, the entire amount then due under the terms of the trust deed and the obligations secured thereby (including costs and expenses actually incurred in enforcing the terms of the obligation and trustee's and attorney's fees not exceeding \$50 each) other than such portion of the principal as would not then 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 implied, 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, including the compensation of the trustee and a reasonable charge by trustee's 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 such 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 title, 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, and substitution shall be made by written instrument executed by the trustee, 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 appointment when this deed, duly 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 or the United States, or a title insurance company authorized to insure title to real property of this state, its subsidiaries, affiliates, agents or branches, or the Oregon State or any agency thereof.

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

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:
(a) primarily for grantor's personal, family, household or agricultural purposes (see Important Notice below);
XXXXXX

This deed applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, execu-
tors, 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 making 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. 1205 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.)

David B. Hammond

Janice J. Hammond

STATE OF OREGON,

County of Klamath } ss.
November 2, 1977

Personally appeared the above named
David B. Hammond and Janice J.
Hammond, Husband and Wife

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

Before me:
(OFFICIAL SEAL) *Richard D. McCart*

Notary Public for Oregon

My commission expires: 4/10/78

(OPS 93 4-9)

STATE OF OREGON, County of } ss.
November 2, 1977

Personally appeared

each for himself and not one for the other, did say that the former is the
and who, being duly sworn,
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 be-
half 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)

\$10,755.00

Klamath Falls, Oregon

November 2, 1977

I (or if more than one maker) we, jointly and severally, promise to pay to the order of
City of Klamath Falls

at 226 South Fifth St., Klamath Falls, OR 97601

Ten Thousand Seven Hundred Fifty-five and no/100----- DOLLARS.
with interest thereon at the rate of 8½ per cent. per annum from
principal and interest payable in monthly installments of not less than \$133.35 until paid.

shall be applied first to accumulated interest and the balance to principal; the first payment to be made on the 2nd day
of December, 1977, and a like payment on the 2nd day of each month thereafter until
December, 1987, when the whole unpaid balance hereof, if any, shall become due and payable; if any of said
installments is not so paid, the whole sum of both principal and interest to become immediately due and collectible at the option of the
holder of this note. If this note is placed in the hands of an attorney for collection, I/we promise and agree to pay the reasonable attorney's
fees and collection costs of the holder hereof, and if suit or action is filed hereon, also promise to pay (1) holder's reasonable attorney's
fees to be fixed by the trial court and (2) if any appeal is taken from any decision of the trial court, such further sum as may be fixed
by the appellate court, as the holder's reasonable attorney's fees in the appellate court.

David B. Hammond

Janice J. Hammond

FORM No. 807—INSTALLMENT NOTE.

571 Stevens-Ness Law Publishing Co., Portland, Ore.

TRUST DEED

(FORM No. 881)

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

David B. Hammond and Janice J.

Hammond, Husband and Wife
Grantor

City of Klamath Falls,

A Municipal Corporation
Beneficiary

AFTER RECORDING RETURN TO

City of Klamath Falls
226 South Fifth Street
Klamath Falls, OR 97601

SPACE RESERVED
FOR
RECORDER'S USE

STATE OF OREGON

County of Klamath } ss.

I certify that the within instru-
ment was received for record on the
29th day of November, 1977,
at 2:41 o'clock P.M., and recorded
in book M77 on page 23117 or
as file/reel number 39684

Record of Mortgages of said County.

Witness my hand and seal of
County affixed.

Wm. D. Milne

County Clerk

By Bernetha A. Ketch Deputy

Fee \$6.00