

HODGIN 380117-1

PIRT 10409

1957

Vol. 781 Page 14644

WHEN RECORDED MAIL TO

3316

BENJ. FRANKLIN FEDERAL SAVINGS  
AND LOAN ASSOCIATIONVol. 781 Page 12511One S.W. Columbia Street  
Portland, OR 97258

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MTC-10409

## DEED OF TRUST

THIS DEED OF TRUST is made this 13th day of July, 19 81,  
among the Grantor ROY E. BIRDSONG and GLORIA D. BIRDSONG, husband and wife (herein "Borrower"),  
Mountain Title, Inc. C. E. Wheelock (herein "Trustee"), and the Beneficiary,  
BENJ. FRANKLIN FEDERAL SAVINGS AND LOAN ASSOCIATION, a corporation organized and existing  
under the laws of the United States of America, whose address is One S.W. Columbia Street, Portland, OR 97258  
(herein "Lender").

BORROWER, in consideration of the indebtedness herein recited and the trust herein created, irrevocably  
grants and conveys to Trustee, in trust, with power of sale, the following described property located in the County  
of KLAMATH, State of Oregon:

A portion of that particular tract of land described in Volume 276, page 326,  
in Deed Records of Klamath County, Oregon, and being more particularly described  
as follows:

Beginning at the quarter section corner common to Sections 22 and 27, Township  
38 South, Range 9 East of the Willamette Meridian; thence North 1026.0 feet;  
thence South 22° 15' West 750.0 feet; thence South 80° 30' West, 21.84 feet; thence  
South 23° 55' East 359.06 feet to the Section line; thence East along said Section  
line a distance of 160.0 feet more or less, to the point of beginning, being in  
the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 22, Township 38 South, Range 9 East of the Willamette  
Meridian, Klamath County, Oregon.

which has the address of 1625 OLD FORT ROAD KLAMATH FALLS  
(Street) (City)  
Oregon 97601 (herein "Property Address");  
(Zip Code)

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances  
and rents (subject however to the rights and authorities given herein to Lender to collect and apply such rents), all of which  
shall be deemed to be and remain a part of the property covered by this Deed of Trust; and all of the foregoing, together with  
said property (or the leasehold estate if this Deed of Trust is on a leasehold) are hereinafter referred to as the "Property";

To SECURE to Lender the repayment of the indebtedness evidenced by Borrower's note dated \_\_\_\_\_  
July 13, 1981 and extensions and renewals thereof (herein "Note"), in the principal sum of  
U.S. \$ 8,000.00, with interest thereon, providing for payments, with the balance of the

indebtedness, if not sooner paid, due and payable on AUGUST 1, 1991 the payment of all other sums, with  
interest thereon, advanced in accordance herewith to protect the security of this Deed of Trust; and the performance of the  
covenants and agreements of Borrower herein contained.

Borrower covenants that borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey  
the Property, and that the Property is unencumbered, except for encumbrances of record. Borrower covenants that borrower  
warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of  
record.

EQUITY

380117-1

'81 JUL 13 AM 11 32

'81 AUG 17 AM 11 33

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

**1. Payment of Principal and Interest.** Borrower shall promptly pay when due the principal and interest indebtedness evidenced by the Note.

**2. Prior Mortgages and Deeds of Trust; Charges; Liens.** Borrower shall perform all of Borrower's obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust, including Borrower's covenants to make payments when due. Borrower shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this deed of Trust, and leasehold payments or ground rents, if any.

**3. Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and such other hazards as lender may require and in such amounts and for such periods as Lender may require.

The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender; provided, that such approval shall not be unreasonably withheld. All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgage clause in favor of and in a form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this deed of Trust.

**4. Preservation and Maintenance of Property; Leaseholds; Condominiums; Planned Unit Developments.** Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Deed of Trust is on a leasehold. If this Deed of Trust is on a unit in a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents.

**5. Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Deed of Trust, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums, including reasonable attorneys' fees, and take such action as is necessary to protect Lender's interest. If Lender required mortgage insurance as a condition of making the loan secured by this Deed of Trust, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law.

Any amounts disbursed by Lender pursuant to this paragraph 5, with interest thereon, at the Note rate, shall become additional indebtedness of Borrower secured by this Deed of Trust. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in this paragraph 5 shall require Lender to incur any expense or take any action hereunder.

**6. Inspection.** Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefor related to Lender's interest in the Property.

**7. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust.

**8. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Deed of Trust granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Deed of Trust by reason of any demand made by the original Borrower and Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

**9. Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 14 hereof. All covenants and agreements of Borrower shall be joint and several. Any Borrower who co-signs this Deed of Trust, but does not execute the Note, (a) is co-signing this Deed of Trust only to grant and convey that Borrower's interest in the Property to Trustee under the terms of this Deed of Trust, (b) is not personally liable on the Note or under this Deed of Trust, and (c) agrees that Lender and any other Borrower hereunder may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Deed of Trust or the Note, without that Borrower's consent and without releasing that Borrower or modifying this Deed of Trust as to that borrower's interest in the Property.

**10. Notice.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Deed of Trust shall be given by delivering it or by mailing such notice by certified mail addressed to Borrower at the Property Address or at such other address as Borrower may designate by notice to lender as provided herein, and (b) any notice to Lender shall be given by certified mail to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Deed of Trust shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.



14646

12513

11. **Governing Law; Severability.** The state and local laws applicable to this Deed of Trust shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of Federal law to this Deed of Trust. In the event that any provision or clause of this Deed of Trust or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision, and to this end the provisions of this Deed of Trust and the Note are declared to be severable. As used herein, "costs," "expenses" and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.

12. **Borrower's Copy.** Borrower shall be furnished a conformed copy of the Note and of this Deed of Trust at the time of execution or after recordation hereof.

13. **Rehabilitation Loan Agreement.** Borrower shall fulfill all of Borrower's obligations under any home rehabilitation, improvement, repair, or other loan agreement which Borrower enters into with Lender. Lender, at Lender's option, may require Borrower to execute and deliver to Lender, in a form acceptable to Lender, an assignment of any rights, claims or defenses which Borrower may have against parties who supply labor, materials or services in connection with improvements made to the Property.

14. **Transfer of the Property.** Borrower shall not sell or transfer all or any part of the Property or an interest therein, or offer to do so, without Lender's written consent, excluding (a) the creation of a lien or encumbrance subordinate to this Deed of Trust, (b) a transfer by devise, descent, or by operation of law upon the death of a joint tenant, or (c) the grant of any leasehold interest of three years or less not containing an option to purchase.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

15. **Acceleration; Remedies.** Upon Borrower's breach of any covenant or agreement of Borrower in this Deed of Trust, including the covenants to pay when due any sums secured by this Deed of Trust, Lender prior to acceleration shall give notice to Borrower as provided in paragraph 10 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 10 days from the date the notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust, and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the breach is not cured on or before the date specified in the notice, Lender, at Lender's option, may declare all of the sums secured by this Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph 15, including, but not limited to, reasonable attorneys' fees.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold and shall cause such notice to be recorded in each county in which the Property or some part thereof is located. Lender or Trustee shall give notice of sale in the manner prescribed by applicable law to Borrower and to the other persons prescribed by applicable law. After the lapse of such time as may be required by applicable law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of the sale in one or more parcels and in such order as Trustee may determine. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or Lender's designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property so sold without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all reasonable costs and expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees and costs of title evidence; (b) to all sums secured by this Deed of Trust; and (c) the excess, if any, to the person or persons legally entitled thereto.

16. **Borrower's Right to Reinstate.** Notwithstanding Lender's acceleration of the sums secured by this Deed of Trust due to Borrower's breach, Borrower shall have the right to have any proceedings begun by Lender to enforce this Deed of Trust discontinued at any time prior to the earlier to occur of (i) the fifth day before sale of the Property pursuant to the power of sale contained in this Deed of Trust or (ii) entry of a judgment enforcing this Deed of Trust if: (a) Borrower pays Lender all sums which would be then due under this Deed of Trust and the Note had no acceleration occurred; (b) Borrower cures all breaches of any other covenants or agreements of Borrower contained in this Deed of Trust; (c) Borrower pays all reasonable expenses incurred by Lender and Trustee in enforcing the covenants and agreements of Borrower contained in this Deed of Trust, and in enforcing Lender's and Trustee's remedies as provided in paragraph 15 hereof, including, but not limited to, reasonable attorneys' fees; and (d) Borrower takes such action as Lender may reasonably require to assure that the lien of this Deed of Trust. Lender's interest in the Property and Borrower's obligation to pay the sums secured by this Deed of Trust shall continue unimpaired. Upon such payment and cure by Borrower, this Deed of Trust and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

17. **Assignment of Rents; Appointment of Receiver; Lender in Possession.** As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under paragraph 15 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration under paragraph 15 hereof or abandonment of the Property, Lender, in person, by agent or by judicially appointed receiver shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by Lender or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Deed of Trust. Lender and the receiver shall be liable to account only for those rents actually received.

12514  
14647  
18. Reconveyance. Upon payment of all sums secured by this Deed of Trust, Lender shall request Trustee to reconvey the Property and shall surrender this Deed of Trust and all notes evidencing indebtedness secured by this Deed of Trust to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled thereto. Such person or persons shall pay all costs of recordation and reconveyance, if any.

19. Substitute Trustee. In accordance with applicable law, Lender may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon the Trustee herein and by applicable law.

20. Use of Property. The Property is not currently used for agricultural, timber or grazing purposes.

21. Attorneys' Fees. As used in this Deed of Trust and in the Note, "attorneys' fees" shall include attorneys' fees, if any, which shall be awarded by an appellate court.

**REQUEST FOR NOTICE OF DEFAULT  
AND FORECLOSURE UNDER SUPERIOR  
MORTGAGES OR DEEDS OF TRUST**

Borrower and Lender request the holder of any mortgage, deed of trust or other encumbrance with a lien which has priority over this Deed of Trust to give Notice to Lender, at Lender's address set forth on page one of this Deed of Trust, of any default under the superior encumbrance and of any sale or other foreclosure action.

IN WITNESS WHEREOF, Borrower has executed this Deed of Trust.

Roy E. Birdsong  
ROY E. BIRDSONG

—Borrower

Gloria D. Birdsong  
GLORIA D. BIRDSONG

—Borrower

STATE OF OREGON, Klamath

County ss:

On this 13th day of July, 19 81, personally appeared the above named

ROY E. BIRDSONG and GLORIA D. BIRDSONG, husband and wife and acknowledged the foregoing instrument to be THEIR voluntary act and deed.

(Official Seal)  
My Commission expires  
5-6-84

Before me:

Ed Schaefer  
Notary Public of Oregon

**REQUEST FOR RECONVEYANCE**

To Trustee: The undersigned is the holder of the note or notes secured by this Deed of Trust. Said note or notes, together with all other indebtedness secured by this Deed of Trust, have been paid in full. You are hereby directed to cancel said note or notes and this Deed of Trust, which are delivered hereby, and to reconvey, without warranty, all the estate now held by you under this Deed of Trust to the person or persons legally entitled thereto.

Date \_\_\_\_\_

**THIS DEED IS BEING RERECORDED TO CORRECT TRUSTEE**

(Space Below This Line Reserved For Lender and Recorder)

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Mountain Title Co.

this 13th day of July A.D. 19 81 at 11:32 o'clock A.  
duly recorded in Vol. M81 of Mortgages on Page 12514

By Evelyn Biehn, County Clerk  
Barbara L. Litch deputy

State of OREGON: COUNTY OF KLAMATH: ss.

I hereby certify that the within instrument was received and filed for record on the

17th day of August A.D., 19 81 at 11:33 o'clock A. M., and duly recorded in  
Vol M81 of Mortgages on page 14644.

Fee \$14.00

EVELYN BIEHN  
COUNTY CLERK

By Barbara L. Litch deputy

MAIL ALL TAX INFO. TO:

Roy E. Birdsong 11715  
Gloria D. Birdsong 11715  
1625 Old Fort Road  
Klamath Falls, Oregon 97601

INDEXED

