

85294

**TRUST DEED**

Vol. M88

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THIS TRUST DEED, made this 8TH day of MARCH  
EARL F. EERNLUND AND CAROLINE

DEED, made this 6th day of MARCH 1988 between  
EARL F. FERNLUND AND CAROLYN L. FERNLUND, AS TENANTS BY THE ENTIRETY

as Grantor, **MELVIN D. FERGUSON**

**SOUTH VALLEY STATE BANK**

**as Beneficiary,**

**WITNESSETH:**

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

SEE ATTACHED EXHIBIT "A" BY THIS REFERENCE MADE A PART HERETO.

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 TWO THOUSAND TWO HUNDRED THIRTEEN AND 03/100 ----- WITH RIGHTS TO FUTURE ADVANCES AND RENEWALS ----- 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 MARCH 10 1989

not sooner paid, to be due and payable MARCH 10, 1989.

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.

To protect the security of this trust deed, grantor agrees:

1. To protect the security of this trust deed, grantor agrees:  
 a. To protect, preserve and maintain said property in good condition and repair; not to remove or demolish any building or improvement thereon; not to consume 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 when due 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 join in executing such financing statements pursuant to the Uniform Commercial 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 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 determine.

[illegible]

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

the grantor shall be obligated to make payment of any taxes, assessments, interest, penalties or charges payable by grantor, either through direct payment or by providing bonds with which to make such payment. Beneficiary trust, at its option, may, with which to make such payment, pay, with interest at the rate set forth in the note secured by the deed, any taxes, assessments, interest, penalties, or charges, hereby together with interest thereon, as provided in paragraphs 6 and 7 of this trust deed, shall be added to and become a part of the debt secured by this deed. Grantor and its successors shall be obligated to pay the debt secured by this deed and for such payments, with interest as aforesaid, the promise herein that they are bound for this debt, as the grantor, shall be bound to the extent that they are bound for this debt.

that, and all such payments as  
due, and the Government the

6. To pay all costs and expenses of this trust including the cost of legal fees 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 appoint and defend any action or proceeding purporting to affect the security, title or powers of beneficiary or trustee; and in any suit, action or proceeding in which the beneficiary or trustee may appear, including such evidence of title and the beneficiary's or trustee's attorney's fees, including reasonable attorney's fees as may be incurred in such an appeal from any judgment or decree of the trial court, and/or further adjustment of such sum as the appellate court shall adjudge reasonable as the beneficiary's or trustee's attorney'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 sue for and recover the full amount of the compensation for such taking, and that all or any portion of the monies payable to pay all reasonable costs, attorneys' and attorneys' fees necessarily paid or incurred by grantor in such proceedings, shall be paid to beneficiary and both in the first upon any reasonable costs and expense and attorney's fee, beneficiary in such proceedings, and the balance applied upon the indebtedness secured hereby; and grantor agrees to execute such instruments as shall be necessary to obtain such compensation, promptly upon beneficiary's request.

granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this deed or the lien or charge thereon; (d) reconvey, without warranty, all or any part of the property. The trustee 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 to third 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 be sued to collect the rents, profits and income therefrom, and to pay the principal and interest thereon, less costs of collection, and to operate and collect, 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, theft or insurance policies or compensation or awards for any taking or damage of said 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, time being of the essence with respect to such payment and/or performance, the beneficiary may declare all sums secured hereby immediately due and payable. In such an event the beneficiary at his election may proceed to foreclose this trust deed advertisement and sale, or may direct the trustee to foreclose this trust deed advertisement and sale, or in equity, which the beneficiary may hereafter elect to do, 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 obligation secured hereby, whereupon the trustee shall fix the time and place of sale, give notice thereof as required by law and shall proceed to foreclose this trust deed in the manner provided by law and

**86.775.** **(3).** After the trustee has commenced foreclosure by advertisement and sale, and at any time prior to 5 days before the date the trustee conducts the sale, the grantor or any other person privileged by ORS 86.753, may cure the default or defaults. If the default or defaults are cured, the entire amount secured by the trust deed, the default may be cured by payment, when due, of the principal and interest then due on the debt, plus the cost of the sale; or, if not then due, he has no default. The time of the cure other than such portion as would be cured may be cured by tendering the sum of any other default that is capable of being cured by the grantor or trustee. In any case, in addition to curing the default or defaults, the person curing the default shall pay to the beneficiary all costs and expenses actually incurred in foreclosure proceedings and the attorney's fees together with trustee's and attorney's fees not exceeding \_\_\_\_\_.

14. Otherwise, the sale shall be held on the date and at the time and place designated by the notice of sale or the time to which said sale may be postponed as provided by law. The trustee may sell said property either in one parcel or in separate parcels and shall accept the highest bid or bids up to the highest bidder for cash, payable at the time of sale. The property shall be sold in the form required by law conveying the property so sold, but without any warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive against the grantor and beneficiary hereunder. Any person, excluding the trustee, but including

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 fee for the attorney, (2) to the obligation secured by the trust deed, (3) to all trustee's unpaid recorded liens subsequent to the interest of the trustee, and (4) the balance of any interests may appear in the order of their priority and (5) the surplus, if any, to the grantor or to his successor in interest, entitled to the surplus.

16. Beneficiary may from time to time appoint a successor or successors to any trustee named herein or to any successor trustee appointed hereunder. Upon appointment, and without conveyance to the successor trustee, the latter shall be and will take, 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, which when recorded in the mortgage records of the county 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, 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.

NOTICE: 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, a title insurance company authorized to insure title to real property of this state, its subsidiaries, affiliates, agents or branches, the United States or any agency thereof, or an escrow agent licensed under ORS 696.505 to 696.583.

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

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) for an organization, or (even if grantor is a natural person) are for business or commercial purposes.

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 (c) is applicable and the beneficiary is a creditor as 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 use Stevens-Mess Form No. 1319, or equivalent. If compliance with the Act is not required, disregard this notice.

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

STATE OF OREGON,

County of KLAMATH

This instrument was acknowledged before me on  
MARCH 8, 1988, by

EARL F. FERNLUND AND  
CAROLYN L. FERNLUND

Carl A. Burg  
 Notary Public for Oregon

My commission expires: 12/12/91

STATE OF OREGON,

County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_,

19\_\_\_\_, by \_\_\_\_\_,

as \_\_\_\_\_

of \_\_\_\_\_

Notary Public for Oregon

My commission expires: \_\_\_\_\_

(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

Do not lose or destroy this Trust Deed OR THE NOTE which it secures. Both must be delivered to the trustee for cancellation before reconveyance will be made.

### TRUST DEED

(FORM No. 881)

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

Grantor

Beneficiary

AFTER RECORDING RETURN TO

SOUTH VALLEY STATE BANK  
 5215 SOUTH SIXTH STREET  
 KLAMATH FALLS, OR 97603

SPACE RESERVED  
 FOR  
 RECORDER'S USE

STATE OF OREGON,

County of \_\_\_\_\_

I certify that the within instrument was received for record on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and recorded in book/reel/volume No. \_\_\_\_\_ on page \_\_\_\_\_ or as fee/file/instrument/microfilm/reception No. \_\_\_\_\_, Record of Mortgages of said County.

Witness my hand and seal of County affixed.

NAME

TITLE

By \_\_\_\_\_ Deputy

EXHIBIT A  
DESCRIPTION

A portion of the NE 1/4 of Section 23, Township 39 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at an iron pin which is South  $0^{\circ}40'29''$  West 165 feet and North  $89^{\circ}31'24''$  West 281.0 feet, more or less, from the brass cap which marks the North quarter corner of said Section 23; thence South  $10^{\circ}45'24''$  East 391.5 feet to an iron pin which is also on the Norhtwesterly right of way of the Klamath Falls-Keno Highway; thence South  $55^{\circ}57'10''$  West 157.5 feet along said right of way to an iron pin; thence North  $0^{\circ}17'$  West 473.0 feet to a one inch iron pin; thence South  $89^{\circ}31'24''$  East 60.0 feet, more or less to the point of beginning.

EARL F. FERNLUND AND CAROLYN L. FERNLUND

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of South Valley State Bank the 16th day  
of March A.D. 19 88 at 11:45 o'clock A M., and duly recorded in Vol. M88  
of -Mortgages on Page 3697

FEE \$15.00

Evelyn Biehn, County Clerk

By *Pam Smith*