

95710

TRUST DEED

Vol. m89 Page 295

THIS TRUST DEED, made this 4TH day of JANUARY, 1989, between
DONALD E. ROWLETT AND JEAN ROWLETT

as Grantor, WILLIAM P. BRANDSNESS , as Trustee, and
..... SOUTH VALLEY STATE BANK
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:
Lots 1,2,3,4,5,6,7,8,9, and 10 in Block 78 of
Klamath Addition to the City of Klamath Falls, Oregon,
according to the official plat thereof on file in the
office of the County Clerk 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 connection with said real estate.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the sum of ****FIVE HUNDRED FIFTY THOUSAND AND NO/100'S****(550,000.00) WITH RIGHTS TO FUTURE ADVANCES, RENEWALS AND EXTENSIONS. Dollars, with interest thereon according to the terms of a promissory

RENEWALS AND EXTENSIONS 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 31,** 19 **89**

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, 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 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 require, in

any amount not less than \$_____. FULL PAYMENT to time rendered, in companies acceptable to the beneficiary, with loss payable to the latter; all policies of insurance shall be delivered to the beneficiary as soon as insured; the grantor shall cause to be procured and maintained such insurance and to 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; the beneficiary may procure the same at grantor's expense. The amount collected under any or other insurance policy may be applied by beneficiary at any time, in whole or in part, to the payment of such indebtedness, may determine, or at option of beneficiary the entire amount so collected or any part thereof, may be released to grantor. Such application or release shall not constitute a release of the grantor from his obligation of default hereunder or invalidate any due or accruing interest thereon.

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 payable 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 sum so paid shall be added to the principal sum secured by this trust deed, together with the obligations described in paragraph 1 hereof; 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 hereinbefore described, as well as the grantor, shall be bound to the same extent that they are bound for the payment of the obligation herein secured; and in the event of any default by the grantor in the payment of the said notice and the nonpayment thereof shall, at the option of the beneficiary, render all sums secured by this trust deed immediately due and payable and constitute a breach of this trust deed.

6. To pay all costs, fees and expenses, as well as the other costs of the suit.

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 and costs.

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 appeal from any judgment or order of any court, including the court of appeals, 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 order of the trial court, the amount of the attorney's fees, plus 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, beneficiaries shall have the

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 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 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, and profits, including those past due and unpaid, and apply the same, less costs 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 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.

2. Upon performance 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 by recording a notice of sale or advertisement to sell to place any other right of remedy, either at law or in equity, which the beneficiary may have. In the event the beneficiary elects to foreclose by advertisement and sale, 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 obligation secured hereby. In the event the beneficiary elects to place any other right of remedy thereat as then required by law and proceed to foreclose this trust deed in the manner provided in ORS 86.735 to 86.795.

13. 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 so privileged by RS 86-353, may cure the default and prevent foreclosure by tendering to the trustee the sums secured by the trust deed, the default may be cured by paying the entire amount due at the time of the cure other than such portion as would not then be due had no default occurred. Any other default that is capable of cure shall make the trustee liable for tendering the sums necessary to cure the obligation or trust deed. In any case, in addition to curing the default or defaults, the person effecting the cure shall pay to the beneficiary all costs and expenses actually incurred in enforcing the obligation of the trust deed together with trustee's and attorney's fees not exceeding the amounts provided by law.

14. Other than the sale shall be held on the date and at the time and place designated in 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 or more separate parcels and shall sell the parcel or parcels at auction to the highest bidder. The 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 truth of the same. The proceeds of the sale shall be paid to the trustee, but including the grantor and beneficiary, may purchase at said sale.

15. When trustee may purchase in the sale.

16. Shall apply the proceeds of sale to payment of: (1) the expenses of sale, including the compensation of the trustee and reasonable charge by trustee's attorney; (2) to the obligation secured by the trust deed; (3) to all prior 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. Beneficiary may from time to time appoint a successor or successors to any trust 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 a written instrument executed by beneficiary, and shall be subject to the approval of the majority in committee of which the person appointing is a member. The appointment of a successor trustee shall be subject to the approval of the 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.

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, 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 ex-law agent licensed under ORS 97A.035 to 97A.036.

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 (a) 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-Ness Form No. 1319, or equivalent. If compliance with the Act is not required, disregard this notice.

Donald E. Rowlett
DONALD E. ROWLETT
Jean Rowlett
JEAN ROWLETT

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

STATE OF OREGON,

County of Klamath

ss.

This instrument was acknowledged before me on January 4, 1988, by Donald E. Rowlett and Jean Rowlett, signing this as their voluntary act and deed.

Alan J. Serajulles, Notary Public for Oregon
(SEAL) My commission expires: 6/12/92

STATE OF OREGON,

County of

ss.

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

DONALD E. ROWLETT

JEAN ROWLETT

Grantor

SPACE RESERVED
FOR
RECORDER'S USE

SOUTH VALLEY STATE BANK

Beneficiary

AFTER RECORDING RETURN TO

SOUTH VALLEY STATE BANK
5215 SOUTH 6TH STREET
KLAMATH FALLS, OR 97603

Fee \$13.00

STATE OF OREGON,

County of Klamath

ss.

I certify that the within instrument was received for record on the 6th day of Jan., 1989, at 9:15 o'clock A.M., and recorded in book/reel/volume No. M89 on page 295 or as fee/file/instrument/microfilm/reception No. 95710, Record of Mortgages of said County.

Witness my hand and seal of County affixed.

Evelyn Biehn, County Clerk

NAME

TITLE

By *Debbie Mullen* Deputy