

98537

Vol m89 Page 5241

WHEN RECORDED MAIL TO

PORTLAND FEDERAL EMPLOYEES' CREDIT UNION

Address: 333 S.W. Fifth Suite 300

City: Portland,

State: Oregon 97204

Loan #: MTDV-5

Account #: 194250-5.5

MTZ-21114

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DEED OF TRUST

THIS DEED OF TRUST, made this 28th day of March
 Michael W. Haxby and Barbara L. Haxby, Husband and wife
 and Mountain Title Company
 and PORTLAND FEDERAL EMPLOYEES' CREDIT UNION, an Oregon corporation, (BENEFICIARY).
 Grantor irrevocably GRANTS, BARGAINS, SELLS AND CONVEYS TO TRUSTEE IN TRUST, WITH POWER OF SALE, the real property
 in the County of Klamath
 described as follows:

19.89 between
 (GRANTOR)
 (TRUSTEE)

Beginning at a point 660 feet West of the Southeast corner of the Southeast quarter of the Northwest quarter of Section 25, Township 24 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon; thence North parallel with the West line of said Southeast quarter of the Northwest quarter 1320 feet more or less to the North line of the Southeast quarter of the Northwest quarter; thence West along the North line of the Southeast quarter of the Northwest quarter 220 feet; thence South parallel with the West line of the Southeast quarter of the Northwest quarter 1320 feet more or less to the South line of the Southeast quarter of the Northwest quarter; thence East along the South line of the Southeast quarter of the Northwest quarter 220 feet to the point of beginning.

EXCEPT: That part of said property lying within the Odell-Crescent County Roadway.

which has the address of (Tax Lot 400) Odell-Crescent Road
 (Street)

Crescent
 (City)

Oregon 97733
 (State and Zip Code)

together with (1) all interests, easements, rights and privileges now or hereafter belonging to or used in connection with this property and all improvements, fixtures, furnishings, flora, appliances and apparatus of any nature now or hereafter attached to, adapted to, located on or used in connection with this property, (2) all interests Grantor may hereafter acquire, and (3) the rents and income thereof. All of the foregoing shall constitute the Trust Property.

This conveyance is to secure payments of all the following: (1) Sums due under a certain promissory note of the same date, executed by Grantor in the sum of Fifteen Thousand One Hundred Fifty-One Dollars and Fifty-Two Cents

Dollars (\$ **15,151.52**), payable in 60 e monthly payments with the final payment due on the 3rd day of April, 1994 e which is the maturity date of this Deed of Trust, (2) all further sums which may be loaned or advance by Beneficiary to Grantor, or any of them, and (3) any additional sums which may become payable to Beneficiary under the provisions of this Deed of Trust or other security instruments securing this loan.

The maturity date of this Deed of Trust may be extended based upon the variations of the interest rate as set forth in the promissory note and disclosure statement executed this date.

Unless otherwise provided, all additional sums becoming payable to Beneficiary under this Deed of Trust shall be due immediately and shall bear interest until paid at the rate set forth in the promissory note executed this date by the Grantor, but said rate shall never exceed the rate permitted by Oregon State Law.

Each Grantor, jointly and severally, covenants and agrees as follows:

(e means estimate.)

89 MAR 29 PM 3 44

1. **Covenant of Title.** Grantor is the owner in fee simple (or, if it has so advised Beneficiary in writing, the lessee) of the Trust Property and entitled to possession of it. Grantor has the right to convey the Trust Property and it is free from encumbrances, except those previously accepted by Beneficiary in writing. Grantor will keep the Trust Property free from all encumbrances and will warrant and defend it forever against all claims and demands.
2. **Payment/Late Charge.** Grantor will pay when due all secured sums described above. If any payment becomes overdue for a period in excess of fifteen days, a "late charge" of five percent (5%) of the sum of principal and interest of each overdue payment may be made by Portland Federal Employees' Credit Union. If the fifteen (15) day period ends on a Saturday, Sunday or legal holiday, the fifteen (15) day period is extended to the next business day.
3. **Representation as to Trust Property.**
 - a. If located in Idaho, the Trust Property either is not more than twenty acres in area or is located within an incorporated city or village.
 - b. If located in Washington, the Trust Property is not used principally for agricultural or farming purposes.
 - c. If located in Oregon, the Trust Property is not now used for agricultural, timber or grazing purposes.
4. **Preservation, Repair and Use of Trust Property.** Grantor will keep the Trust Property in good condition and repair and will not remove, alter or demolish any structure on it without the written consent of Beneficiary. Grantor will complete all structures now or hereafter under construction on the Trust Property within the time allowed by the Construction Loan Agreement or six months, whichever is greater, and will completely repair and reconstruct any structure on the Trust Property which may be damaged or destroyed. Grantor will pay when due all claims for labor performed and materials furnished. Grantor will comply with all laws, ordinances, codes, orders, declarations, by-laws, rules, regulations and restrictions affecting the Trust Property and will not commit or permit waste of the Trust Property. Grantor will not use the Trust Property for any unlawful purposes.
5. **Insurance, Taxes and Reserves.**
 - a. The Trust Property shall be covered by fire insurance with extended coverage, mortgage insurance and such liability insurance as Beneficiary may require, and, flood insurance as required by law, in amounts as may be required by Beneficiary at the expense of the Grantor. Grantor shall provide proof of such coverage upon demand by Beneficiary. The insurance companies and policies must be satisfactory to Beneficiary with loss payable to Beneficiary.
 - b. The Grantor shall pay when due all taxes and assessments imposed against the Trust Property and all claims and demands arising from Grantor's use or occupancy of the Trust Property and upon demand provide Beneficiary satisfactory evidence of payment.
 - c. In case of loss by any hazard, casualty, or contingency insured against, or in case of any condemnation proceedings, Grantor shall give immediate notice thereof to Beneficiary and Beneficiary may either (1) direct Grantor to collect the proceeds or award, in which case Grantor shall do so with due diligence, or (2) collect the proceeds or award itself, in which case Grantor shall cooperate as directed by Beneficiary. In either case, the proceeds or award shall be paid to Beneficiary (and all insurers or condemning authorities are herewith authorized to make such payment), and Beneficiary is authorized at its option after reimbursing from such proceeds or award any expenses incurred in the collection or handling of the funds, to hold all or part of the net proceeds or award for payment of costs of restoration or repair of the property damaged, destroyed or condemned, and/or to apply all or part of the net proceeds as a credit on any portion of the secured debt selected by Beneficiary, whether then matured or to mature in the future, or on any deficiency judgement. Beneficiary shall not be responsible for any failure to collect proceeds or award, regardless of the cause of such failure. The foregoing power and authority is irrevocable and coupled with an interest, and nothing done under this paragraph shall in any way waive any default or affect the security of this deed of Trust or any liability of Grantor. Foreclosure hereof by sale or otherwise shall not affect or impair the above granted powers and authority.
6. **Delinquent Payments.** Grantor agrees to pay any expenses, including attorney's fees, incurred by Beneficiary or Trustee in collecting delinquent payments or in curing any default under this Deed of Trust.
7. **Leasehold Provisions.** Grantor will not default on any leases on the Trust Property to which Grantor is or may become a party, or materially modify any such lease without Beneficiary's written consent. Where Grantor is Lessor, Grantor will diligently enforce its rights and exercise its best efforts to continue any such lease in effect.
8. **Protection of Beneficiary's Security, Attorney's Fees and Expenses.**
 - a. Should Grantor fail to make any payment or to do any act as herein provided, Beneficiary without notice to Grantor and without releasing Grantor from any obligation hereof, may make or do the same in such manner and to such extent as it may deem necessary to protect the security of this Deed of Trust. Beneficiary is authorized to enter upon the Trust Property for such purposes. The Beneficiary may pay, purchase, contest or compromise any encumbrance, charge or lien which in its judgement appears to be prior or superior to the lien of this Deed of Trust.
 - b. In any suit to foreclose this Deed of Trust, or in any suit or proceedings in which it may be necessary for Beneficiary to appear in order to protect Beneficiary's security interest or in the event of any measures taken in connection with a sale or intended sale pursuant to the power granted hereunder, Grantor agrees to pay to Beneficiary all costs and expenses and a reasonable sum as attorney's fees, including fees on appeal, and further agrees to pay the costs of title search incurred in the foregoing.
 - c. Any expenses, attorney's fees and costs incurred under section 8 shall bear interest as provided in this Deed of Trust from the date of expenditure until paid and, at Beneficiary's option, may be billed directly to Grantor, which billing shall be immediately due and payable, or may be added to the principal amount secured hereby.
9. **Assignment of Rents; Receiver; Operation.**
 - a. As additional security, Grantor assigns to Beneficiary all rents and income from the Trust Property and assigns to Beneficiary any leases now or hereafter in effect upon the Trust Property or any part thereof, and Grantor gives to Beneficiary the authority, upon default, to collect the rents and income from the Trust Property. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, take possession of the Trust Property or any part thereof, and any personal property securing the indebtedness, may lease or rent all or part of the Trust Property, may repair and maintain the Trust Property, may pay all operating expenses, may retain the customary charges for managing property, may hire a management service or manager to manage the Trust Property, may pay taxes, assessments, insurance premiums and similar charges, all as it deems appropriate, and may collect the rent and income, including those past due and unpaid, and apply the same, less all costs and expenses of operation, management, repair and collection, including reasonable attorney's fees, upon any indebtedness secured hereby in such order as Beneficiary may determine.

- b. Grantor agrees that a receiver may be appointed by a court without regard to the adequacy of the security for the indebtedness or the solvency of Grantor or the presence of waste or danger of loss or destruction of the Trust Property, to possess, manage and control the Trust Property and any personal property in which Beneficiary has a security interest as additional security for this loan and to collect the rent and income thereof and to exercise those rights set forth in section 9 or otherwise allowed by law.
10. **Relevant Financial Information.** Upon demand, Grantor will provide Beneficiary with operating statement and other financial information relevant to the use, operation and income of the Trust Property, including access to the books and records.
11. **Transfer of Property; Assumption; Conditions.** This loan is personal to Grantor and not assignable. In making it, Beneficiary has relied on Grantor's credit, Grantor's interest in the Trust Property, and financial market conditions at the time this loan is made. If Grantor transfers or contracts to transfer title to or possession of all or part of the Trust Property, by deed, contract or sale, lease or similar agreement, Beneficiary may declare the entire balance of this loan immediately due and payable.
12. **Default; Acceleration; Remedies.**
- Time is material and of the essence hereof. If Grantor does not pay the secured indebtedness as provided, or if Grantor does not comply with the terms and conditions of this Deed of Trust, or if a proceeding under any bankruptcy, receivership or insolvency law may be instituted by or against any of the Grantors, or if any of the Grantors make an assignment for the benefit of creditors, or if state laws are changed hereafter to impose what Beneficiary may deem to be a substantial tax upon Beneficiary by reason of its interest in this Deed of Trust (unless Grantor may lawfully pay such tax and does so), this Deed of Trust shall be in default. Any default under this Deed of Trust shall constitute a default under such note which it secures and under all other security instruments securing the note. Any default under such other security instruments shall constitute a default under this Deed of Trust. In the event of default, Beneficiary may declare all sums secured hereby immediately due and payable, and this Deed of Trust may be foreclosed and the Trust Property sold in any manner allowed by law, including without limitation, by advertisement and sale under exercise of power of sale, or as a mortgage on real property. Proceeds of a sale pursuant to exercise of the power of sale shall be applied to (1) the expenses of sale, including Trustee's and attorney's fees, and (2) obligations secured hereby. The surplus, if any, shall be paid to persons entitled thereto by law.
 - In the event this Deed of Trust is foreclosed as a mortgage on real property, Grantor, and each of them, consents to a personal deficiency judgement for any part of the debt hereby secured which shall not be paid by the sale of the Trust Property, unless such judgement is prohibited by law, and in case of foreclosure, expressly waives (1) any claim of homestead and (2) all rights to possession of the premises during the period allowed by law for redemption.
 - Beneficiary is not obligated to take any action which this Deed of Trust provides it "may" take. Any power given Beneficiary by this Deed of Trust may also be exercised by such agents as Beneficiary may designate, including Trustee.
13. **Reconveyance Upon Payment.** Upon written request of Beneficiary stating that all sums secured hereby have been paid, surrender of this Deed of Trust and the secured note to Trustee for cancellation and retention and payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in any reconveyance executed under this Deed of Trust of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto."
14. **Substitute Trustee.** In the event of dissolution or resignation of the Trustee, Beneficiary may substitute a trustee(s) to execute the trust hereby created, and the new trustee(s) shall succeed to all powers and duties of prior trustee(s).
15. **Non-Waiver Provisions.** Neither forbearance by Beneficiary in exercising any right or remedy hereunder or remedy afforded by law, nor any exercise by Beneficiary or those acting in its interest of any right or remedy, shall cure or waive any default or notice of default, nor shall any of the foregoing be a waiver of or preclude the exercise of any right or remedy. All remedies, provided in this Deed of Trust are distinct and cumulative to each other and to all other rights or remedies, and may be exercised concurrently, independently or successively.
16. **Waiver by Non-Obligated Persons.** Notwithstanding any other provision of this Deed of Trust, any person who executes this Deed of Trust, but not the note secured hereby, shall have no personal liability on the note or for any deficiency judgement which may be obtained upon foreclosure of this Deed of Trust. Such persons jointly and severally waive presentment, demand, protest and all notices and agree that Beneficiary, without notice to them or their consent, and upon such terms as Beneficiary may deem advisable, and without affecting in any way Beneficiary's rights hereunder as against the Trust Property, may:
- Extend, release, surrender, exchange, compromise, discharge or modify any right or obligation secured by or provided by this Deed of Trust or any other instrument securing this loan, or
 - Take any other action which Beneficiary may deem reasonably appropriate to protect its security interest in the Trust Property.
17. **Successors and Assigns.** This deed of Trust applies to, binds and benefits all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, assigns and pledgees. In this Deed of Trust, whenever the context so requires, the singular includes the plural.
18. **Notices, Refunds.** All notices and reserve account refunds shall be given in another manner, any notice to the Grantor provided for in this Deed of Trust shall be given by mailing such notice addressed to Grantor at the Property Address or at such other address as Grantor may designate by written notice to Beneficiary.
20. **Severability.** If any provision of this Deed of Trust shall be held to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other provisions of this Deed of Trust, but this Deed of Trust shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
21. **Entire Agreement.** This Deed of Trust and the Promissory Note contain the entire agreement of the parties with respect to the matters covered and no other previous agreement, statement or promise made by any party to this Deed of Trust which is not contained in its terms or on the terms of the Promissory Note shall be binding or valid.

Sign
HereMichael W. Haxby

Michael W. Haxby

Sign
HereBarbara L. Haxby

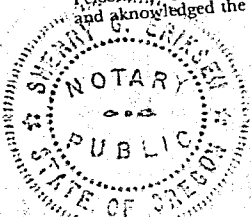
Barbara L. Haxby

INDIVIDUAL

STATE OF Oregon

County of Klamath

Personally appeared the above named

Michael W. Haxby and Barbara L. Haxbyand acknowledged the foregoing instrument to be a voluntary act and deed. Before me: March 28, 1989March 28, 19 89Sherry J. Erikson
Notary Public for the state of Oregon
My commission expires: May 22, 1989

STATE OF

CORPORATE

County of _____
Personally appeared __________, 19____
_____, and _____
who, being duly sworn, each for himself and not one for the other, _____ of _____ a corporation, 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 _____
My commission expires: _____

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Co. the 29th day
of March A.D., 19 89 at 3:44 o'clock PM., and duly recorded in Vol. M89
of Mortgages on Page 5241By Evelyn Biehn County ClerkBy O. A. Miller

FEE \$23.00