

19877

FORM No. 881—Oregon Trust Deed Series—TRUST DEED.

17694

K-42364

TRUST DEED

Vol. M90 Page 18042

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THIS TRUST DEED, made this 6th day of July, 1990, between

KLAMATH PACIFIC CORPORATION

as Grantor, KLAMATH COUNTY TITLE COMPANY
ASPHALT CONSTRUCTION COMPANY

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:

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF

This is being re-recorded to correct description contained in Trust Deed recorded in M-90 on page 14226.

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 THREE HUNDRED SIXTY THOUSAND AND NO/100—

(\$360,000.00)

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 July 30, 2000.

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 title 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 structures erected on the said premises against loss or damage by fire and other hazards as the beneficiary may from time to time require, in an amount not less than \$100,000.00, written in policies of insurance shall be delivered to the beneficiary as soon as insured; and the grantor shall not fail or any reason to procure any such insurance; and to deliver said policies to the beneficiary at least fifteen days prior to the expiration of any term of insurance now or hereafter placed on said buildings, the beneficiary may procure the same at grantor's expense. The amount of 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 paragraphs 6 and 7 of 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 described, and all such payments shall be immediately due and payable without 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 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 any 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 decreed 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.

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 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 the note and the note for endorsement (in case of full reconveyances, 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 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 premises and profits, 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 entire indebtedness 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.

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 in equity as a mortgage or direct the trustee to foreclose this trust deed by advertisement and sale, or may direct the trustee to pursue any other right or 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 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 86.735 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 ORS 86.735, may cure the default or defaults. If the default consists of a failure to pay, 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 being cured may be cured by tendering the performance required under 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. Otherwise, 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 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 at 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 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, which, when recorded in the mortgage records 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 trust when this deed, duly executed and acknowledged is made a public record as provided by law. Trustee is not bound 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 escrow agent licensed under ORS 696.505 to 696.585.

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15 SEP 7 PM 3 54

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:
(a)* primarily for grantor's personal, family or household purposes (see Important Notice below).
(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.

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

STATE OF OREGON,

County of _____

ss.

This instrument was acknowledged before me on _____, 19____, by _____

STATE OF OREGON,

County of Klamath

This instrument was acknowledged before me on July 13, 1990, by Bob Stewart

as President

of Klamath Pacific Corporation,

(SEAL)

Notary Public for Oregon

My commission expires: _____

Notary Public for Oregon

My commission expires: 12-19-92

(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.

Grantor

Beneficiary

AFTER RECORDING RETURN TO

KTC

SPACE RESERVED

FOR

RECORDER'S USE

STATE OF OREGON,

County of _____ ss.

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 OF PROPERTY

The following described real property situate in Klamath County, Oregon:

NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18 Township 38 S., R. 9 E.W.M., together with the right of ingress and egress to and from the land hereby conveyed, over and upon the road presently located upon the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18, Township 38 S., R. 9 E.W.M., EXCEPTING therefrom that portion reserved to W.D. Miller Construction Company by deed dated October 14, 1958, recorded October 21, 1958, in Volume 305 page 166 Deed Records of Klamath County, Oregon.

SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18, Township 38 S., R. 9 E.W.M.

A tract of land situated in Lot 1, Section 18, Township 38 S., R. 9 E.W.M., Klamath County, Oregon, being more particularly described as follows: Beginning at the northeast corner of said Lot 1; thence North 89° 25' West along the north line of said Lot 1 to the northerly right of way line of The Dalles-California Highway; thence southeasterly along said right of way line to the east line of said Lot 1; thence North 0° 22' East along the east line of said Lot 1 to the point of beginning.

SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18, Township 38 S., R. 9 E.W.M., LESS area occupied by Highway as described in Book 95 page 181, Deed Records of Klamath County, Oregon containing 0.145 acres, more or less; and EXCEPTING THEREFROM a parcel of land in the southwest corner of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 18, lying south of a line drawn parallel to and 347.77 feet Northeasterly at right angles from the centerline of the paved surface of Highway 97 as now constructed.

A parcel of land lying in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18, Township 38 S., R. 9 E.W.M., Klamath County, Oregon, said parcel lying between the northeasterly right of way line of The Dalles-California Highway and a line parallel to and 347.77 feet distant northeasterly from the centerline of the The Dalles-California Highway, said parcel being more particularly described as follows: Beginning at a point on the south line of Section 18, Township 38 S., R. 9 E.W.M., Klamath County, Oregon, said point also lying on the northeasterly right of way line of The Dalles-California Highway; thence northwesterly along the northeasterly right of way line of The Dalles-California Highway to a 1 $\frac{1}{2}$ " pipe on the west line of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 18, said 1 $\frac{1}{2}$ " pipe being 1068.93 feet south of the northwest corner of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 18; thence north along the west line of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 18 to a point which lies 347.77 feet northeastly, when measured at right angles, from the centerline of The Dalles-California Highway; thence southeasterly parallel to and 347.77 feet distant from the center line of The Dalles-California Highway to a point on the South line of said Section 18; thence west along the south line of said Section 18 to the point of beginning.

SAVING AND EXCEPTING THE FOLLOWING PARCELS DESCRIBED IN EXHIBITS B AND C.

EXHIBIT B

Page 1 of 2

PARCEL 1 - Fee

A parcel of land lying in Lot 1 and in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 18, Township 38 South, Range 9 East, W.M., Klamath County, Oregon; the said parcel being that portion of said subdivisions lying Northeasterly of the existing The Dalles-California Highway and included in a strip of land 100 feet in width, 50 feet on each side of the center line of West Campus Drive which center line is described as follows:

Beginning at Engineer's center line Station 1+25.36, said station being 169.20 feet North and 1402.72 feet West of the Southeast corner of Section 18, Township 38 South, Range 9 East, W.M.; thence North 51° 02' 50" East 262.45 feet; thence on a 1041.74 foot radius curve right (the long chord of which bears North 72° 35' 51.5" East 765.30 feet) 783.65 feet; thence on a spiral curve right (the long chord of which bears South 81° 21' 06" East 149.84 feet) 150.01 feet; thence on an 818.51 foot radius curve right (the long chord of which bears South 47° 14' 59.5" East 799.29 feet) 835.04 feet; thence South 18° 01' 25" East 413 feet; thence on a 1206.23 foot radius curve left (the long chord of which South 53° 36' 26.5" East 1403.79 feet) 1498.26 feet to Engineer's center line Station 40+67.77.

Bearings are based on the Plat of TRACT 1174 - COLLEGE INDUSTRIAL PARK, Klamath County, Oregon, dated September 14, 1979.

The parcel of land to which this description applies contains 3.27 acres, more or less.

PARCEL 2 - Permanent Easement for Slopes

A parcel of land lying in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 18, Township 38 South, Range 9 East, W.M., Klamath County, Oregon; the said parcel being that portion of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ lying between lines at right angles to the center line of West Campus Drive at Engineer's Stations 6+00 and 10+00 and included in a strip of land variable in width, lying on the Northwestern side of said center line which center line is described in Parcel 1.

The widths in feet of the strip of land above referred to are as follows:

Station	to	Station	Width on Northwestern Side of Center Line
6+00		7+00	50 in a straight line to 85
7+00		8+00	85 in a straight line to 80
8+00		9+00	80 in a straight line to 70
9+00		10+00	70 in a straight line to 50

EXCEPT therefrom Parcel 1.

The parcel of land to which this description applies contains 8,950 square feet, more or less.

EXHIBIT B

Page 2 of 2

PARCEL 3 - Permanent Easement for Slopes

A parcel of land lying in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 18, Township 38 South, Range 9 East, W.M., Klamath County, Oregon; the said parcel being that portion of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ lying between lines at right angles to the center line of West Campus Drive at Engineer's Stations 10+00 and 11+71.46 and included in a strip of land variable in width, lying on the Southerly side of said center line which center line is described in Parcel 1.

The widths in feet of the strip of land above referred to are as follows:

Station	to	Station	Width on Southerly Side of Center Line
10+00		11+71.46	50 in a straight line to 50

EXCEPT therefrom Parcel 1.

The parcel of land to which this description applies contains 225 square feet, more or less.

PARCEL 4 - Permanent Easement for Slopes

A parcel of land lying in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 18, Township 38 South, Range 9 East, W.M., Klamath County, Oregon; the said parcel being that portion of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ lying Southeasterly of a line at right angles to the center line of West Campus Drive at Engineer's Station 15+00 and included in a strip of land variable in width, lying on the Southwesterly side of said center line which center line is described in Parcel 1.

The widths in feet of the strip of land above referred to are as follows:

Station	to	Station	Width on Southwesterly Side of Center Line
15+00		16+00	50 in a straight line to 60
16+00		20+00	60

EXCEPT therefrom Parcel 1.

The parcel of land to which this description applies contains 1,775 square feet, more or less.

EXHIBIT C

PARCEL 1 - Fee

A parcel of land lying in Lot 1 of Section 18, Township 38 South, Range 9 East, W.M., Klamath County, Oregon; the said parcel being that property lying between lines at right angles to the center line of the relocated The Dalles-California Highway at Engineer's Stations 69+00.47 and 71+57.36 and included in a strip of land variable in width, lying on the Northeasterly side of said center line, which center line is described as follows:

Beginning at Engineer's center line Station 62+23.90, said station being 13.30 feet North and 1274.98 feet West of the Southeast corner of Section 18, Township 38 South, Range 9 East, W.M.; thence on a 5729.58 foot radius curve left (the long chord of which bears North 44° 51' 15" West 1320.17 feet) 1323.11 feet; thence North 51° 29' 11" West 952.99 feet to Engineer's center line Station 85+00.

The widths in feet of the strip of land above referred to are as follows:

Station	to	Station	Width on Northeasterly Side of Center Line
69+00.47		70+50.44	119.94 in a straight line to 100.01
70+50.44		71+57.36	100.01 in a straight line to 75.04

Bearings are based upon the Oregon Co-ordinate System of 1927, South zone.

The parcel of land to which this description applies contains 2,932 square feet, more or less, outside of the existing right of way.

PARCEL 2 - Fee

A parcel of land lying in Lot 1 of Section 18, Township 38 South, Range 9 East, W.M., Klamath County, Oregon; the said parcel being that property lying between lines at right angles to the center line of the relocated The Dalles-California Highway at Engineer's Stations 74+50.41 and 79+00 and included in a strip of land variable in width, lying on the Northeasterly side of said center line, which center line is described in Parcel 1.

The widths in feet of the strip of land above referred to are as follows:

Station	to	Station	Width on Northeasterly Side of Center Line
74+50.41		76+50	74.97 in a straight line to 75
76+50		78+00	75 in a straight line to 100
78+00		79+00	100 in a straight line to 50

The parcel of land to which this description applies contains 17,008 square feet, more or less, outside of the existing right of way.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Title Co. the 7th day of Sept. A.D., 19 90 at 3:54 o'clock P.M., and duly recorded in Vol. M90 of Mortgages on Page 18042.
 FEE \$30.00
 Evelyn Biehn County Clerk
 By Pauline M. Miller