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35216

TRUST DEED

Vol. 991 Page 19604

THIS TRUST DEED, made this 26th day of September, 19. 91, between
SUBHASH PATEL and RENUKA PATEL,

as Grantor, BLAIR M. HENDERSON, _____, es Trustee, and
BOGATAY CONSTRUCTION, INC., an Oregon corporation, _____

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:

For legal description, see Exhibit "A", attached hereto and by this reference incorporated herein.

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 One hundred sixty-nine thousand three hundred seventy-four and 96/100 (\$169,374.96) ----- Dollars, with interest thereon according to the terms of a promissory

(\$169,374.96) ----- 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 February 28, 1992.

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:

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.

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 perils as the beneficiary may from time to time require, in an amount not less than \$ _____, written 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; if the grantor shall fail for any reason to procure and keep such insurance, he shall deliver said policies to the beneficiary as soon as they are placed prior to the expiration of the policy; insurance now or hereafter placed on said buildings, whether the beneficiary may procure the same at grantor's expense. The amount collected under any fire or other insurance policy may be applied by beneficiary upon any indebtedness secured hereby and in such order as beneficiary may determine, or at option of beneficiary the entire amount so collected may be paid over to the beneficiary. If the grantor dies before payment or release shall have been made, his estate, heirs, assigns, personal representatives or executors shall nevertheless be bound to pay the full amount due on account of such insurance, notwithstanding any default or notice of default hereupon 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 payment of such taxes, assessments and other charges become past due, the grantor warrant 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, shall be added to and become a part of the sum secured by this trust deed, without waiver of any rights arising from breach of any of the covenants hereof and such amounts, with interest as aforesaid, the property hereinafter described as well as the grantor, shall be bound to the same inasmuch as 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.

fees actually incurred 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 the mortgage of 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 decree of the trial court, grantor or trustee, such adjustment as the appellate court shall find just and 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 under nation, beneficiary shall have the right, at its election, 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 a attorney's fees necessarily paid or incurred by grantor in such proceedings, and the balance applied upon the indebtedness arising thereon, be paid to beneficiary to reimburse costs and expenses and attorney's fees, both in the trial and appellate courts, necessarily paid or incurred by beneficiary in such proceedings, and the balance applied upon the indebtedness stated hereby; and grantor agrees, at its own expense, to take such action as may be necessary to obtain 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 this deed 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 thereof; (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, hereinafter any at any time without notice, default by grantor to be deemed to be appointed by court and without regard to the adequacy of any security for the indebtedness hereby secured, return upon and take possession of said property or any part thereof, in its own name sue or otherwise collect the rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, toward satisfying the indebtedness hereby 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.

12. Upon default by grantor in payment of any indebtedness secured hereby or in his performance of any covenant hereunder, this being of the essence of the loan, the trustee, in its sole discretion, may, at its option, 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 execute a power of sale, if any, which may have in the future. In the latter event 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 sell the time and place of sale, give notice thereof as may be required by law, and proceed to foreclose this trust deed in the manner provided in ORS 86.735 to 86.740.

13. After the trustee has commenced foreclosure by advertisement and sale, and at any time prior to 5 days following the date the trustee conducts the sale, the grantor or any other person so privileged by ORS 86.753, may cure the default or defaults. If the default consists of a failure to pay, when due, 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 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 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, and shall execute a deed conveying the property 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. And the trustee shall execute a deed conveying the property to the purchaser 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) 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 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 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 in 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 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, affiliate, agents or branches, the United States or any agency thereof, or an escrow agent licensed under ORS 696.505 to 696.585.

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.

SUBHASH PATEL
Patel
RENUKA PATEL

(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 September 26, 1991, by Subhash Patel and Renuka Patel

STATE OF OREGON,

County of

} ss.

This instrument was acknowledged before me on

19, by

as

of

Notary Public for Oregon
(SEAL) My Commission expires: 11-20-91

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.

Subhash and Renuka Patel
414 North "G" Street
Lakeview, OR 97630

Grantor

Bogatay Construction, Inc.
P. O. Box 493
Klamath Falls, OR 97601

Beneficiary

AFTER RECORDING RETURN TO

Blair M. Henderson, Atty.
426 Main Street
Klamath Falls, OR 97601

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"

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

Beginning at an iron pin on the Northeasterly right of way line of the State Highway No. 97 which lies S. 0°06' W. along the East section line a distance of 688.5 feet and N. 89°49' W. along the North line of Byrd Avenue in Chelsea Addition, a distance of 521.6 feet and N. 38°52' W. along the Northeasterly right of way line of State Highway No. 97 (Note: State Highway bearing of this line shown N. 39°07 1/2' W.) a distance of 380.55 feet from the iron axel which marks the Northeast corner of Section 19, Township 38 South, Range 9 E.W.M., in Klamath County, Oregon, and running thence: N. 51°08' E. a distance of 192.77 feet to an iron pin; thence N. 38°52' W. parallel to the Northeasterly right of way line of Highway No. 97 to a point on the North line of Section 19; thence West along the North line of Section 19 to its intersection with the Northeasterly right of way line of Highway No. 97; thence Southeasterly along the Northeasterly right of way line of Highway 97 to the point of beginning, said tract containing 1.8 acres, more or less, in the NW1/4NE1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, in Klamath County, Oregon.

SUBJECT, HOWEVER, TO THE FOLLOWING:

1. Taxes for 1991-92 are now a lien but not yet payable,
Note: Taxes for 1991-92 are paid as follows:
\$5,030.56 Account No. 3809-19AA-200 Key: 432124
\$ 847.02 Account No. P16753 Key: 781675
2. Rights of the public in and to any portion of the herein described property lying within the boundaries of public roads or highways.
3. Grant of Right of Way, including the terms and provisions thereof, given by A.C. Lavenik and Edrie Lavenik, husband and wife, to The California Oregon Power Company, a California corporation, dated September 2, 1958, recorded September 2, 1958, in Volume M78, page 20136, Deed records of Klamath County, Oregon.
4. Easement, including the terms and provisions thereof, between Joe H. Victor and Eleanor Victor and City of Klamath Falls, Oregon, dated August 1, 1978, recorded September 12, 1978, in Volume M78, page 20136, Deed records of Klamath County, Oregon.
5. Conditional Assignment of Rentals, including the terms and provisions thereof, between Subhash C. Patel and Renuka S. Patel, husband and wife, and Klamath First Federal Savings & Loan Association, a Federal Corporation, dated May 2, 1988, recorded May 2, 1988, in Volume M88, page 6894, Mortgage Records of Klamath County, Oregon.

6. Trust Deed, including the terms and provisions thereof, executed by Subhash C. Patel and Renuka S. Patel, husband and wife, as grantors, to William L. Sisemore, as trustee for Klamath First Federal Savings and Loan Association, as beneficiary, dated May 2, 1988, recorded May 2, 1988, in Volume M88, page 6889, Mortgage records of Klamath County, Oregon, to secure the payment of \$220,000.00.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Blair Henderson the 26th day
of Sept. A.D., 19 '91 at 3:47 o'clock P.M., and duly recorded in Vol. M91,
of Mortgages on Page 19604

Evelyn Biehn, County Clerk

By Pauline W. Wheeler

FEE \$23.00