

41648

TRUST DEED

Vol 192 Page 4224

THIS TRUST DEED, made this 23rd day of December, 1991, between ETERNAL HILLS MEMORIAL GARDENS, INC., an Oregon Corporation

as Grantor, Mountain Title Company of Klamath County  
BYDAND PARTNERS, a California partnership, as Trustee, and

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:  
as shown on Exhibit A attached hereto.

together with all and singular the tenements, hereditaments and appurtenances and all other rights thereto 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 Four hundred and eighty four thousand, eight hundred and fifty and 1/100

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, it not sooner paid, to be due and payable December 23, 1993

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 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 any 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 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, or any part thereof, may be released to grantor upon application of release shall 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 due and to become a part of the debt secured by this trust deed; should the grantor fail to pay any of such 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 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 hereinafter 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 fixed 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 of 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 applied by it first upon any reasonable 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 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 expenses under the laws of Oregon or 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, 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 personally or by an 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, issues 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 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 the 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 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 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 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 86.753, 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 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 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, 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, affiliates, agents or branches, the United States or any agency thereof, or an escrow agent licensed under ORS 696.505 to 696.585.

30.00

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 this Act is not required, disregard this notice.

ETERNAL HILLS MEMORIAL GARDENS, INC., an Oregon Corporation

BY G. B. Gordon, Jr., President

BY R. A. Gordon, Secretary

CALIFORNIA  
STATE OF OREGON, County of \_\_\_\_\_ ss.

This instrument was acknowledged before me on \_\_\_\_\_, 19\_\_\_\_,

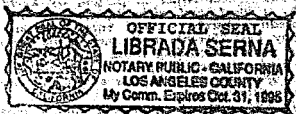
by \_\_\_\_\_

This instrument was acknowledged before me on December, 1991,

by G. B. Gordon, Jr. and R. A. Gordon

as President and Secretary

of ETERNAL HILLS MEMORIAL GARDENS, INC., an Oregon Corporation



Librada Serna  
Notary Public for Oregon  
California  
My commission expires \_\_\_\_\_

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: \_\_\_\_\_

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. 851)

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

Grantor  
Beneficiary

SPACE RESERVED  
RECORDING'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/title/instrument/microfilm/reception No. \_\_\_\_\_ Record of Mortgages of said County.

Witness my hand and seal of County affixed.

AFTER RECORDING RETURN TO  
Oakdale Memorial Park & Mortuary  
1401 So. Grand Ave.,  
Glendora, CA 91740

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

Order No: 20952

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**PARCEL 1:**

A tract of land situated in the SW1/4 of the SW1/4, Section 7, Township 39 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a point on the West line of the SW1/4 SW1/4, said Section 7 and 30 feet Northerly of the Southwest corner of said Section 7; thence Northerly along the West line of the SW1/4 SW1/4, said Section 7, 85.00 feet; thence Easterly parallel to the South line of said Section 7 to a point 15 feet Westerly of the center line of the Enterprise Irrigation District Canal; thence in a Southerly direction and paralleling the center line of said irrigation canal and following a line at all times 15 feet from the center line of said irrigation canal to a point 30 feet Northerly of the South line of said Section 7; thence Westerly parallel with the South line of said Section 7 to the point of beginning, being the Southerly 85.00 feet of that tract of land described in Deed Volume 214, page 511, as recorded in the Klamath County Deed Records. EXCEPTING THEREFROM that portion lying within the Klamath Falls-Merrill Highway.

Tax Account No.: 3910-07CC-700

**PARCEL 2**

A parcel of land situate in the NW1/4 of Section 18, Township 39 South Range 10, East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a point on the South line of the N1/2 of the NW1/4 of Section 18 which bears North 89 degrees 59' 04" West 1301.29 feet from the Southeast corner of the NE1/4 of the SE1/4; thence North 0 degrees 14' 05" West, 416.51 feet; thence West 55.19 feet; thence along the arc of a 1191.20 foot Radius curve to the right 632.03 feet (long chord bears South 89 degrees 09' 08" West 624.64 feet); thence along the arc of a 111.93 foot Radius curve to the right 147.78 feet (long chord bears North 37 degrees 49' 26" West 137.28 feet); thence South on a line parallel to and 541.8 feet East of the West line of Section 18 to a point on the South line of the N1/2 of the NW1/4; thence South 89 degrees 59' 04" East along the South line of the N1/2 of the NW1/4 to the point of beginning, containing 6.48 acres, more or less.

Tax Account No: 3910-1880-200

**PARCEL 4:**

A tract of land in the NW1/4 of the NW1/4 of Section 18, Township 39 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon, and being more particularly described as follows:

Beginning at an iron pipe at the intersection of the North boundary of above said Section 18 and the Easterly right of way boundary of the Klamath Falls-Merrill Highway (Hwy #39); thence East along the aforesaid North boundary of Section 18, a distance of 511.78 feet; thence South 183.91 feet to an iron pin marking the most Northeasterly corner of Tract 1197, First Addition to Eternal Hills Memorial Gardens; thence Westerly following along the most Northerly boundary of above said Gardens on the following courses: West 65.31 feet, South 46 degrees 07' 30" West, 33.51 feet, South 62 degrees 28' 00" West 53.17 feet, South 79 degrees 42' 00" West, 214.38 feet, and South 88 degrees 03' 00" West, 164.34 feet, more or less, to an iron pin on the Easterly right of way boundary of the Klamath Falls-Merrill Highway; thence North along same 275.64 feet to the point of beginning, containing 2.86 acres, more or less, and excepting from the above described land the North 30.00 feet thereof for road purposes.

Tax Account No.: 3910-1880-400

PARCEL 5:

4227

A parcel of land situated in the NW1/4 of the NW1/4 of Section 18, Township 39 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Beginning at a point on the Easterly right of way boundary of the Klamath Falls-Merrill Highway which point bears South 683 feet and East 30 feet from the Section corner common to Sections 12, 13, 17 and 18; thence East 233.65 feet; thence North 21 degrees 30' West, 90.90 feet; thence North 13 degrees 21' West, 60.26 feet; thence North 60 degrees 11' East, 205.33 feet; thence South 60 degrees 44' 30" East 154.42 feet; thence North parallel with the Easterly right of way boundary of aforesaid highway a distance of 275.25 feet; thence North 56 degrees 28' West a distance of 79.42 feet to the Southerly right of way boundary of the Enterprise Irrigation District Canal; thence along said Enterprise Irrigation District Canal as follows: South 52 degrees 41' West 58.80 feet; South 79 degrees 42' West 225.74 feet and South 88 degrees 02' West 164.34 feet to the Easterly right of way boundary of the Klamath Falls-Merrill Highway; thence South along same a distance of 407.40 feet, more or less, to the point of beginning, containing 3.60 acres, more or less.

Tax Account No.: 3910-18B0-500

PARCEL 6

The East 511.8 feet of the West 541.8 feet of the NW1/4 of the NW1/4 of Section 18 Township 39 South, Range 10, East of the Willamette Meridian, Klamath County, Oregon, lying Southerly of the North line of Tract 1197, First Addition to Eternal Hills Memorial Gardens, as filed in the Klamath County Clerks Office of Klamath County, Oregon.

EXCEPTING THEREFROM:

A parcel of land situated in the NW1/4 of the NW1/4 of Section 18, Township 39 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Beginning at a point on the Easterly right of way boundary of the Klamath Falls-Merrill Highway which point bears South 683 feet and East 30 feet from the Section corner common to Sections 12, 13, 17 and 18; thence East 233.65 feet; thence North 21 degrees 30' West, 90.90 feet; thence North 13 degrees 21' West, 60.26 feet; thence North 60 degrees 11' East, 205.33 feet; thence South 60 degrees 44' 30" East 154.42 feet; thence North parallel with the Easterly right of way boundary of aforesaid highway a distance of 275.25 feet; thence North 56 degrees 28' West a distance of 79.42 feet to the Southerly right of way boundary of the Enterprise Irrigation District Canal; thence along said Enterprise Irrigation District Canal as follows: South 52 degrees 41' West 58.80 feet; South 79 degrees 42' West 225.74 feet and South 88 degrees 02' West 164.34 feet to the Easterly right of way boundary of the Klamath Falls-Merrill Highway; thence South along same a distance of 407.40 feet, more or less, to the point of beginning.

## PARCEL 7:

A portion of that tract of land described in Volume 78, page 427, of Deed Records of Klamath County, Oregon, and being more particularly described as follows:

Beginning at the section corner common to Sections 12 and 13, Township 39 South, Range 9 East, and Sections 7 and 18, Township 39 South, Range 10 East of the Willamette Meridian, thence South 683.0 feet and East 30.0 feet to the most Northwesterly corner of that tract of land described in Volume 326, pages 622 and 624, thence East along the North boundary of same a distance of 346.8 feet to the Northeasterly corner thereof which is the true point of beginning of this description; thence continuing East along the aforesaid North boundary projected a distance of 140.0 feet, thence South parallel with the Easterly boundary of the aforesaid tract of land a distance of 340.0 feet, thence West 140.0 feet to the Easterly boundary aforesaid, thence North along same a distance of 340.0 feet more or less to the true point of beginning, containing 1.09 acres, more or less.

Tax Account No.: 3910-1880-700

## PARCEL 8:

A portion of that particular tract of land described in Volume 78, page 427, of Deed Records of Klamath County, Oregon, and being more particularly described as follows:

Beginning at a point on the Easterly right of way boundary of the Dalles-California Highway (Klamath Falls-Merrill Highway) which point bears South 683.0 feet and East 30 feet from the Section corner common to Sections 7 and 18, Township 39 South, Range 10 East of the Willamette Meridian, and Sections 12 and 13, Township 39 South, Range 9 East of the Willamette Meridian; thence East at right angles to the aforesaid highway right of way boundary, a distance of 346.8 feet; thence South parallel to the aforesaid highway right of way boundary, a distance of 627.4 feet; thence South 89 degrees 54' West, 346.8 feet, more or less, to the aforesaid right of way boundary of the Klamath Falls-Merrill Highway; thence North along said boundary 628.0 feet to the point of beginning, containing 5.0 acres, more or less, and being in the Northwest quarter of the Northwest quarter of Section 18, Township 39 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon.

Tax Account No.: 3910-1880-800

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Wm. L. Sisemore the 2nd day  
of March A.D. 19 92 at 12:51 o'clock P.M., and duly recorded in Vol. M92,  
of Mortgages on Page 4224.

Evelyn Biehn County Clerk  
By Pauline Mullendore

FEE \$30.00