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MTC 33119-KR  
PROMISSORY NOTE

\$50,000.00

1-29-94P03 05 RCVD

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FOR VALUE RECEIVED, OLD FORT SAND & GRAVEL, INC., an Oregon corporation (Maker), hereby promises to pay, in lawful money of the United States of America, to the order of HANK ALBERTSON (Payee) at HC 60 Box 4700, Lakeview, OR 97630, FIFTY THOUSAND (\$50,000.00) DOLLARS on December 1, 1995.

In the event that the note is not paid timely, interest in the amount of 12% per annum shall be added to the principal and the total principal and interest shall be due.

**SECURITY:** As security for the payment of this note, MAKER assigns to HANK ALBERTSON its interest and position in the Campbell Gravel Pit in an amount not to exceed \$50,000.00, as per the Sales Agreement and Promissory Note dated the 4th day of November, 1994, and that Trust Deed dated the 4th day of November 1994, by and between MAKER and HMR, INC. MAKER also grants HANK ALBERTSON the right to redeem and fulfill that certain trust deed conveying ownership of the Campbell Gravel Pit from HMR, INC. to MAKER, subject to the following sequentially occurring conditions precedent:

MAKER has the right to retire this note at any time prior to its December 1, 1995, due date. In such event, the payoff amount will be discounted by an amount to be determined by negotiation between MAKER and HANK ALBERTSON; however, said payoff amount shall be no less than \$27,500, plus interest at 15% per annum from August 29, 1994, with a minimum of six months interest, and all costs and legal fees if necessary to enforce payment of this note.

**DEFAULT:** MAKER shall be in default of this Promissory Note without notice or demand, if MAKER has failed to pay any installment within ten (10) days after its due date. MAKER shall also be deemed in default hereof in the event of a breach of any of the terms or conditions set forth in the Trust Deed which secures this Note. Upon default, PAYEE shall be entitled to exercise all those remedies provided herein and in the Trust Deed, together with any and all other legal remedies available to PAYEE, subject to the following sequentially occurring conditions precedent:

1. MAKER'S default/s upon the terms and conditions of that certain promissory note and deed of trust conveying ownership of the (CAMPBELL GRAVEL PIT) from HMR, INC. to MAKER to which this instrument is an ancillary agreement.
2. MAKER'S subsequent failure to cure said default/s.

UPON RECORDING RETURN TO:

Wayne L. Johnson  
1700 Valley River Drive, Penthouse  
Eugene, OR 97401

*Handwritten signature and initials*

3. The issuance from an Oregon court of judgment holding **MAKER** in default and foreclosing **MAKER'S** interest in the property described in and under said deed of trust.
4. **MAKER'S** failure to redeem its interest in the property and trust deed so foreclosed in accordance with Oregon law.

**ACCELERATION CLAUSE:** **MAKER'S** default herein shall, at **PAYEE'S** option and without notice or demand to **MAKER**, render the entire principal balance, plus all accrued interest, late charges, default charges and other expenses due hereunder, immediately due and payable in full.

**DEFAULT CHARGES:** In the event suit, action or other legal proceeding is brought to interpret or enforce the provisions of this Note, **MAKER** shall pay all of **PAYEE'S** reasonable attorney's fees and costs, disbursements, and litigation expenses incurred in such suit, action, legal proceeding and any appeal therefrom.

**ADVANCES BY PAYEE:** In the event Payee elects to pay any sum due from **MAKER** to any third party pursuant to the terms of this Note, the security instrument which secures this Note and/or any underlying note, security instrument or contract, the sum so paid by **PAYEE** shall be immediately added to the unpaid balance of this Note and shall bear interest at the stated rate from the date of such payment. **PAYEE'S** election to make one or more of such advances shall not constitute a waiver of **PAYEE'S** right to declare a default hereunder.

**MISCELLANEOUS:** In no event shall the interest collected hereunder exceed the maximum rate allowed by law. In the event any term or provision of this Note, or any provision of the security instrument given in conjunction herewith, is found to be unenforceable to unlawful for any reason, the remainder shall be carried into effect as though the unenforceable portion was stricken herefrom. As the context requires, the singular includes the plural, the plural the singular and the masculine includes the feminine and neuter. The obligation of all Makers named below is joint and several. All captions used herein are solely for convenience of reference and shall not affect the interpretation of this instrument.

The **MAKER**, endorsers and guarantors hereto severally waive notice of acceptance, presentment for payment, demand, notice of demand, notice of nonpayment and notice of protest of this Note. No waiver of any default, nor any modification or waiver

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of any term or condition set forth herein shall constitute a waiver of any subsequent default nor shall it affect the liability of any Maker, endorser or guarantor hereto.

Dated this 25th day of November, 1994.

OLD FORT ROAD SAND & GRAVEL, INC.

X J T Bowers  
John T. Bowers, President

### ASSIGNMENT OF NOTE:

HANK ALBERTSON assigns his right, title and interest in the above promissory note to WAYNE L. JOHNSON, or assigns, in exchange for a loan in the amount of \$27,500, plus interest at 15% per annum with a minimum of six months interest.

Hank Albertson

Dated this 29th day of November, 1994

### PERSONAL AND INDIVIDUAL GUARANTEE:

HANK ALBERTSON, Assignor, hereby guarantees full payment to Assignee as per the terms of the above promissory note, in the event MAKER fails to make the payment and interest required upon the terms and conditions of this note.

Hank Albertson

Dated this 29th day of November, 1994

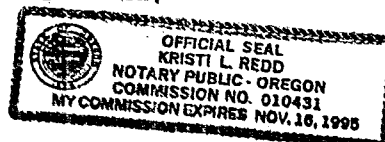
State of Oregon )  
County of Klamath )

ss.

This instrument was acknowledged before me on November 25, 1994 by JOHN T. BOWERS, as President of Old Fort Road Sand & Gravel Inc., an Oregon corporation.

Kristi L. Redd  
NOTARY PUBLIC FOR OREGON, My Commission Expires: 11/16/95  
State of Oregon  
County of Klamath

ss.



This instrument was acknowledged before me on November 29, 1994 by HANK ALBERTSON.

Kristi L. Redd  
NOTARY PUBLIC FOR OREGON, My Commission Expires: 11/16/95  
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EXHIBIT "A"  
LEGAL DESCRIPTION

Parcel 3 of Land Partition 26-34, as filed in the Klamath County Clerks office, more particularly described as follows:

Beginning at a 5/8 inch iron rod that marks the Northwest corner of the Southwest one-quarter (SW1/4) Northwest one-quarter (NW1/4), Section 23, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, thence South 89 degrees 45' 58" East along the North line of said SW1/4 NW1/4 a distance of 792.44 feet to a 5/8 inch iron rod, thence South 0 degrees 34' 57" East a distance of 2989.51 feet to a 5/8 inch iron rod, thence West a distance of 2181.70 feet to a 5/8 inch iron rod located on the West line of East one-half (E1/2) East one-half (E1/2) of Section 22 said Township and Range, thence North 0 degrees 06' 18" East along said West line a distance of 1686.64 feet to a 5/8 inch iron rod that marks the Northwest corner of the Northeast one-quarter (NE1/4) Southeast one-quarter (SE1/4) said Section 22, thence North 0 degrees 08' 32" East continuing along said West line a distance of 1312.90 feet to a 5/8 inch iron rod that marks the Northwest corner of the Southeast one-quarter (SE1/4) Northeast one-quarter (NE1/4) said Section 22, thence South 89 degrees 41' 51" East along the North line of said SE1/4 NE1/4 a distance of 1352.54 feet to the point of beginning.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Co  
 of Nov A.D. 19 94 at 3:05 o'clock P M. and duly recorded in Vol. M94 day  
 of Nov 29th  
 on Page 36384  
 FEE \$25.00  
 Mortgages  
 Evelyn Biehn  
 By [Signature] - County Clerk