

'02 FEB 15 AM 10:57

Vol M02 Page 9277

RECORDATION REQUESTED BY:

Klamath First Federal Savings & Loan Association
Campus Branch
2420 Dahlia Street
Klamath Falls, OR 97601

Vol M02 Page 7664

WHEN RECORDED MAIL TO:

Klamath First Federal Savings & Loan Association
Campus Branch
2420 Dahlia Street
Klamath Falls, OR 97601

State of Oregon, County of Klamath

Recorded 02/08/2002 11:02 a.m.

Vol M02, Pg 7664-68

Linda Smith, County Clerk

Fee \$ 41.00 # of Pgs 5

SEND TAX NOTICES TO:

'02 FEB 8 AM 11:02

State of Oregon, County of Klamath

Recorded 02/15/2002 10:57 A.m.

Vol M02, Pg 9277-82

Linda Smith, County Clerk

Fee \$ 30.00 # of Pgs 6

SE ONLY

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NOTICE: THIS SUBORDINATION OF DEED OF TRUST RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

SUBORDINATION OF DEED OF TRUST

THIS SUBORDINATION OF DEED OF TRUST dated January 31, 2002, is made and executed among Monti's Construction, Inc. and Thomas W. Mc Gowan *** ("Beneficiary");

AmeriTitle ("Trustee"); NIMEH DAIBES and NAJAT DAIBES ("Borrower"); and Klamath First Federal Savings & Loan Association ("Lender"). ***and Barbara Mc Gowan

SUBORDINATED INDEBTEDNESS. Beneficiary has extended the following described financial accommodations (the "Subordinated Indebtedness") to NIMEH DAIBES and NAJAT DAIBES ("Trustor"):

Promissory Note in the amount of \$100,000.00 dated February 4, 2002 in favor of Monti's Construction, Inc. and Thomas W. Mc Gowan and Barbara Mc Gowan,

SUBORDINATED DEED OF TRUST. The Subordinated Indebtedness is secured by a deed of trust dated February 5, 2002 from Trustor to Trustee in favor of Beneficiary (the "Subordinated Deed of Trust") recorded in KLAMATH County, State of Oregon as follows:

November 19, 1996 Klamath County M90 Page 23132. recording concurrently herewith - M02-7645

REAL PROPERTY DESCRIPTION. The Subordinated Deed of Trust covers the following described real property located in KLAMATH County, State of Oregon:

See Exhibit "A"

* BEING RERECORDED TO CORRECT LEGAL DESCRIPTION

The Real Property or its address is commonly known as 2047-2061 ELDORADO BLVD., KLAMATH FALLS, OR 97601. The Real Property tax identification number is 3809-020DB-00800-000

REQUESTED FINANCIAL ACCOMMODATIONS. Borrower, who may or may not be the same person as Trustor, and Beneficiary each want Lender to provide financial accommodations to Borrower in the form of (A) new credit or loan advances, (B) an extension of time to pay or other compromises regarding all or part of Borrower's present indebtedness to Lender, or (C) other benefits to Borrower. Borrower and Beneficiary each represent and acknowledge to Lender that Beneficiary will benefit as a result of these financial accommodations from Lender to Borrower, and Beneficiary acknowledges receipt of valuable consideration for entering into this Subordination.

LENDER'S LIEN. As a condition to the granting of the requested financial accommodations, Lender has required that Lender's Lien be and remain superior to the Subordinated Deed of Trust.

NOW THEREFORE THE PARTIES TO THIS SUBORDINATION HEREBY AGREE AS FOLLOWS:

SUBORDINATION. The Subordinated Deed of Trust and the Subordinated Indebtedness secured by the Subordinated Deed of Trust is and shall be subordinated in all respects to Lender's Lien and the Superior Indebtedness, and it is agreed that Lender's Lien shall be and remain, at all times, prior and superior to the lien of the Subordinated Deed of Trust. Beneficiary also subordinates to Lender's Lien all other Security Interests in the Real Property held by Beneficiary, whether now existing or hereafter acquired.

BENEFICIARY'S REPRESENTATIONS AND WARRANTIES. Beneficiary represents and warrants to Lender that: (A) no representations or agreements of any kind have been made to Beneficiary which would limit or qualify in any way the terms of this Subordination; (B) this Subordination is executed at Borrower's request and not at the request of Lender; (C) Lender has made no representation to Beneficiary as to the creditworthiness of Borrower; and (D) Beneficiary has established adequate means of obtaining from Borrower on a continuing basis information regarding Borrower's financial condition. Beneficiary agrees to keep adequately informed from such means of any facts, events, or circumstances which might in any way affect Beneficiary's risks under this Subordination, and Beneficiary further agrees that Lender shall have no obligation to disclose to Beneficiary information or material acquired by Lender in the course of its relationship with Borrower.

BENEFICIARY WAIVERS. Beneficiary waives any right to require Lender: (A) to make, extend, renew, or modify any loan to Borrower or to grant any other financial accommodations to Borrower whatsoever; (B) to make any presentment, protest, demand, or notice of any kind, including notice of any nonpayment of any Superior Indebtedness secured by Lender's Lien, or notice of any action or nonaction on the part of Borrower, Lender, any surety, endorser, or other guarantor in connection with the Superior Indebtedness, or in connection with the creation of new or additional indebtedness; (C) to resort for payment or to proceed directly or at once against any person, including Borrower; (D) to proceed directly against or exhaust any collateral held by Lender from Borrower, any other guarantor, or any other person; (E) to give notice of the terms, time, and place of any public or private sale of personal property security held by Lender from Borrower or to comply with any other applicable provisions of the Uniform Commercial Code; (F) to pursue any other remedy within Lender's power; or (G) to commit any act or omission of any kind, at any time, with respect to any matter whatsoever.

LENDER'S RIGHTS. Lender may take or omit any and all actions with respect to Lender's Lien without affecting whatsoever any of Lender's rights under this Subordination. In particular, without limitation, Lender may, without notice of any kind to Beneficiary, (A) make one or more additional secured or unsecured loans to Borrower; (B) repeatedly alter, compromise, renew, extend, accelerate, or otherwise change the time for payment or other terms of the Superior Indebtedness or any part of it, including increases and decreases of the rate of interest on the Superior Indebtedness; extensions may be repeated and may be for longer than the original loan term; (C) take and hold collateral for the payment of the Superior Indebtedness, and exchange, enforce, waive, and release any such collateral, with or without the substitution of new collateral; (D) release, substitute, agree not to sue, or deal with any one or more of Borrower's sureties, endorsers, or guarantors on any terms or manner Lender chooses; (E) determine how, when and what application of payments and credits, shall be made on the Superior Indebtedness; (F) apply such security and direct the order or manner of sale of the security, as Lender in its discretion may determine; and (G) transfer this Subordination to another party.

DEFAULT BY BORROWER. If Borrower becomes insolvent or bankrupt, this Subordination shall remain in full force and effect. Any default by Borrower under the terms of the Subordinated Indebtedness also shall constitute an event of default under the terms of the Superior Indebtedness in favor of Lender.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Subordination:

Amendments. This Subordination, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Subordination. No alteration of or amendment to this Subordination shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Arbitration. Borrower and Beneficiary and Lender agree that all disputes, claims and controversies between them whether individual, joint, or class in nature, arising from this Subordination or otherwise, including without limitation contract and tort disputes, shall be arbitrated pursuant to the Rules of the American Arbitration Association in effect at the time the claim is filed, upon request of either party. No act to take or dispose of any Property shall constitute a waiver of this arbitration agreement or be prohibited by this arbitration agreement. This

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**SUBORDINATION OF DEED OF TRUST
(Continued)**

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includes, without limitation, obtaining injunctive relief or a temporary restraining order; foreclosing by notice and sale under any deed of trust or mortgage; obtaining a writ of attachment or imposition of a receiver; or exercising any rights relating to personal property, including taking or disposing of such property with or without judicial process pursuant to Article 9 of the Uniform Commercial Code. Any disputes, claims, or controversies concerning the lawfulness or reasonableness of any act, or exercise of any right, concerning any Property, including any claim to rescind, reform, or otherwise modify any agreement relating to the Property, shall also be arbitrated, provided however that no arbitrator shall have the right or the power to enjoin or restrain any act of any party. Judgment upon any award rendered by any arbitrator may be entered in any court having jurisdiction. Nothing in this Subordination shall preclude any party from seeking equitable relief from a court of competent jurisdiction. The statute of limitations, estoppel, waiver, laches, and similar doctrines which would otherwise be applicable in an action brought by a party shall be applicable in any arbitration proceeding, and the commencement of an arbitration proceeding shall be deemed the commencement of an action for these purposes. The Federal Arbitration Act shall apply to the construction, interpretation, and enforcement of this arbitration provision.

Attorneys' Fees; Expenses. If Lender institutes any suit or action to enforce any of the terms of this Subordination, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Beneficiary also will pay any court costs, in addition to all other sums provided by law.

Authority. The person who signs this Subordination as or on behalf of Beneficiary represents and warrants that he or she has authority to execute this Subordination and to subordinate the Subordinated Indebtedness and the Beneficiary's security interests in Borrower's property, if any.

Caption Headings. Caption headings in this Subordination are for convenience purposes only and are not to be used to interpret or define the provisions of this Subordination.

Governing Law. This Subordination will be governed by, construed and enforced in accordance with federal law and the laws of the State of Oregon. This Subordination has been accepted by Lender in the State of Oregon.

Choice of Venue. If there is a lawsuit, Beneficiary agrees upon Lender's request to submit to the jurisdiction of the courts of Klamath County, State of Oregon.

Successors. This Subordination shall extend to and bind the respective heirs, personal representatives, successors and assigns of the parties to this Subordination, and the covenants of Borrower and Beneficiary herein in favor of Lender shall extend to, include, and be enforceable by any transferee or endorsee to whom Lender may transfer any or all of the Superior Indebtedness.


No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Subordination unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Subordination shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Subordination. No prior waiver by Lender, nor any course of dealing between Lender and Beneficiary, shall constitute a waiver of any of Lender's rights or of any of Beneficiary's obligations as to any future transactions. Whenever the consent of Lender is required under this Subordination, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

Waive Jury. All parties to this Subordination hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN, A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.


EACH PARTY TO THIS SUBORDINATION ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS SUBORDINATION, AND EACH PARTY AGREES TO ITS TERMS. THIS SUBORDINATION IS DATED JANUARY 31, 2002.


BORROWER:

X 
NIMER DAIBES, Individually

X 
NAJAT DAIBES, Individually

BENEFICIARY:

X 
Beneficiary

X 
Barbara McGowan

TRUSTEE:

X _____
_____, Individually

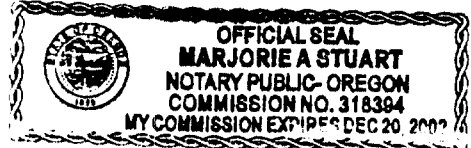
LENDER:

X 
Authorized Officer

INDIVIDUAL ACKNOWLEDGMENT

STATE OF OregonCOUNTY OF Klamath

) SS



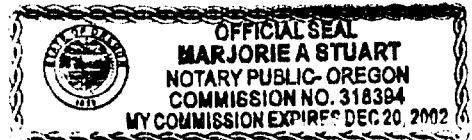
On this day before me, the undersigned Notary Public, personally appeared NIMEH DAIBES and NAJAT DAIBES, to me known to be the individuals described in and who executed the Subordination of Deed of Trust, and acknowledged that they signed the Subordination as their free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 6th day of February, 20 02.By [Signature]Residing at Klamath Falls, ORNotary Public in and for the State of OregonMy commission expires 12-20-02

INDIVIDUAL ACKNOWLEDGMENT

STATE OF OregonCOUNTY OF Klamath

) SS



On this day before me, the undersigned Notary Public, personally appeared Thomas W. Mc Gowan and Barbara Mc Gowan

, to me known to be the individual(s) described in and who executed the , and acknowledged that he or she/they signed the as his or her/their free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 6th day of February, 20 02.By [Signature]Residing at Klamath Falls, ORNotary Public in and for the State of OregonMy commission expires 12-20-02

INDIVIDUAL ACKNOWLEDGMENT

STATE OF OregonCOUNTY OF Klamath

) SS

On this day before me, the undersigned Notary Public, personally appeared _____, to me known to be the individual described in and who executed the Subordination of Deed of Trust, and acknowledged that he or she signed the Subordination as his or her free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this _____ day of _____, 20 _____.

By _____

Residing at _____

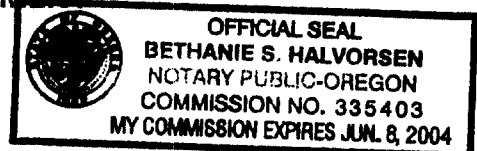
Notary Public in and for the State of _____

My commission expires _____

LENDER ACKNOWLEDGMENT

STATE OF OREGONCOUNTY OF Klamath

) SS



On this 5th day of February, 2002, before me, the undersigned Notary Public, personally appeared Bridgette Griffin-Smith and known to me to be the Commercial Loan Officer, authorized agent for the Lender that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of the said Lender, duly authorized by the Lender through its board of directors or otherwise, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this said instrument and that the seal affixed is the corporate seal of said Lender.

By [Signature]Residing at 540 Main St, Klamath Falls, ORNotary Public in and for the State of OregonMy commission expires 6/8/04

State of Oregon


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7667

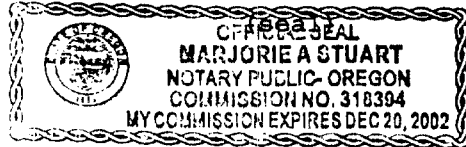
County of Klamath

The foregoing instrument was acknowledged before me this 2/6/02, by Martin I. Monti, President, and by James J. Monti, Secretary of Monti's Construction, Inc., a n Oregon corporation, on behalf of the corporation.

WITNESS My hand and official seal.



Notary Public for Oregon
My Commission expires: 12-20-02



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EXHIBIT "A"
LEGAL DESCRIPTION

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

A parcel of land situated in the NW1/4 SE1/4 of Section 20, Township 38 South, Range 9 East of the Willamette Meridian, and being a portion of Vacated Block 7, ELDORADO HEIGHTS ADDITION to the City of Klamath Falls, Oregon, being more particularly described as follows:

Beginning at a 5/8 inch iron rod on the Northerly right of way line of Eldorado Boulevard, said point being Southeasterly 104.69 feet, along the arc of a curve concave to the Southwest having a radius of 756.26 feet, from a 1 inch iron pipe marking the Southeasterly corner of Lot 19, Block 8 of said addition; thence North 49 degrees 03' 38" East a distance of 119.99 feet to a point on the Northeasterly line of Lot 3 of said Block 7; thence South 32 degrees 04' 46" East a distance of 193.24 feet along the mid-block line of said Block 7; thence South 58 degrees 02' 22" West a distance of 109.66 feet to the Northerly right of way line of Eldorado Boulevard; thence North 31 degrees 57' 38" West a distance of 57.42 feet along said Northerly right of way to the beginning of a curve concave to the Southwest having a radius of 756.26 feet, (a radial bearing from said point being South 57 degrees 58' 06" West.).

EXHIBIT "A"
LEGAL DESCRIPTION

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

A parcel of land situated in the NW1/4 SE1/4 of Section 20, Township 38 South, Range 9 East of the Willamette Meridian, and being a portion of Vacated Block 7, ELDORADO HEIGHTS ADDITION to the City of Klamath Falls, Oregon, being more particularly described as follows:

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