

UTC 1396-9390

2009-003750

Klamath County, Oregon

**RECORDATION REQUESTED BY:**

South Valley Bank & Trust  
Commercial Branch  
P O Box 5210  
Klamath Falls, OR 97601



00062553200900037500080087

03/16/2009 03:33:35 PM

Fee: \$56.00

**WHEN RECORDED MAIL TO:**

South Valley Bank & Trust  
Commercial Branch  
P O Box 5210  
Klamath Falls, OR 97601

*Attn: Cynady*

**SEND TAX NOTICES TO:**

South Valley Bank & Trust  
Commercial Branch  
P O Box 5210  
Klamath Falls, OR 97601

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

**MODIFICATION OF DEED OF TRUST**

**THIS MODIFICATION OF DEED OF TRUST** dated February 9, 2009, is made and executed between Ernst Brothers LLC, whose address is P O Box 637, Gilchrist, OR 97737 ("Grantor") and South Valley Bank & Trust, whose address is Commercial Branch, P O Box 5210, Klamath Falls, OR 97601 ("Lender").

**DEED OF TRUST.** Lender and Grantor have entered into a Deed of Trust dated December 30, 2002 (the "Deed of Trust") which has been recorded in Klamath County, State of Oregon, as follows:

Deed of Trust dated December 30, 2002, recorded January 15, 2003 in Book M03, Page 02790-2801 in records of Klamath County, Oregon.

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

See the exhibit or other description document which is attached to this Modification and made a part of this Modification as if fully set forth herein.

The Real Property or its address is commonly known as Gilchrist, OR 97737.

**MODIFICATION.** Lender and Grantor hereby modify the Deed of Trust as follows:

Extend maturity date.

**CONTINUING VALIDITY.** Except as expressly modified above, the terms of the original Deed of Trust shall remain unchanged and in full force and effect. Consent by Lender to this Modification does not waive Lender's right to require strict performance of the Deed of Trust as changed above nor obligate Lender to make any future modifications. Nothing in this Modification shall constitute a satisfaction of the promissory note or other credit agreement secured by the Deed of Trust (the "Note"). It is the intention of Lender to retain as liable all parties to the Deed of Trust and all parties, makers and endorsers to the Note, including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, shall not be released by virtue of this Modification. If any person who signed the original Deed of Trust does not sign this Modification, then all persons signing below acknowledge that this Modification is given conditionally, based on the representation to Lender that the non-signing person consents to the changes and provisions of this Modification or otherwise will not be released by it. This waiver applies not only to any initial extension or modification, but also to all such subsequent actions.

**DUE ON SALE-CONSENT BY LENDER.** Due On Sale-Consent By Lender. Lender may, at lender's option, declare immediately due and payable all sums secured by this Deed of Trust upon the sale or transfer, without Lender's prior written consent, of all and any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method on conveyance of an interest in the Real Property, or by any other method of conveyance of an interest in the Real Property. If any Grantor is a corporation, partnership or limited liability company, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of such Grantor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Oregon law.

**GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MODIFICATION OF DEED OF TRUST AND GRANTOR AGREES TO ITS TERMS.** THIS MODIFICATION OF DEED OF TRUST IS DATED FEBRUARY 9, 2009.

**GRANTOR:**

**ERNST BROTHERS LLC**

By: Wayne G Ernst  
Wayne G Ernst, Managing Member of Ernst Brothers LLC

By: John Ernst  
John Ernst, Member of Ernst Brothers LLC

By: Jan Houck  
Jan Houck, Member of Ernst Brothers LLC

**LENDER:**

**SOUTH VALLEY BANK & TRUST**

x Annealyn Barry  
Authorized Officer

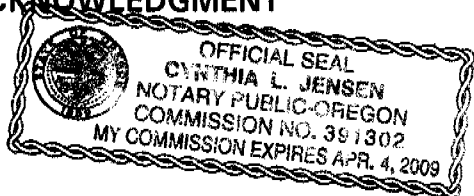
AMERITITLE has recorded this instrument by request as an accommodation only, and has not examined it for regularity and sufficiency or as to its effect upon the title to any real property that may be described therein.

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LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF Oregon  
COUNTY OF Klamath

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) SS  
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On this 27<sup>th</sup> day of February, 20 09, before me, the undersigned Notary Public, personally appeared **Wayne G Ernst, Managing Member of Ernst Brothers LLC; Jan Houck, Member of Ernst Brothers LLC; and John Ernst, Member of Ernst Brothers LLC**, and known to me to be members or designated agents of the limited liability company that executed the Modification of Deed of Trust and acknowledged the Modification to be the free and voluntary act and deed of the limited liability company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute this Modification and in fact executed the Modification on behalf of the limited liability company.

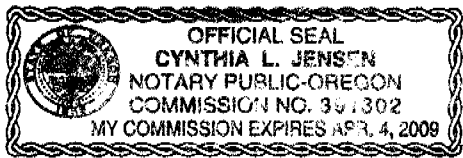
By Cynthia L Jensen  
Notary Public in and for the State of Oregon

Residing at Klamath Falls  
My commission expires 4/4/09

LENDER ACKNOWLEDGMENT

STATE OF Oregon  
COUNTY OF Klamath

)  
) SS  
)



On this 27<sup>th</sup> day of February, 20 09, before me, the undersigned Notary Public, personally appeared Angalee M Barry and known to me to be the authorized agent for South Valley Bank & Trust that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of **South Valley Bank & Trust**, duly authorized by **South Valley Bank & Trust** 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 in fact executed this said instrument on behalf of **South Valley Bank & Trust**.

By Cynthia L Jensen  
Notary Public in and for the State of Oregon

Residing at Klamath Falls  
My commission expires 4/4/09

Parcel 1

A portion of the NW1/4 NE1/4 in Section 30, Township 24 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, lying East of the Deschutes River and West of vacated outlots of Crescent.

Account No: 2409-03000-00201-000

Parcel 2

TRACT 1: Parcel 1 of Major Partition Plat No. 53-91, Records of Klamath County, Oregon;

TRACT 2: A tract of land, reserved and excepted to Gilchrist Timber Company, by the Deed to Klamath County School District recorded in Klamath County Deed Records, Volume M76, page 11148, as more particularly described therein, including a well, well house and a tract 25 feet in diameter surrounding the well house.

Account No: 2409-01900-00104-000

Account No: 2409-030AB-01600-000

Account No: 2409-030AB-01700-000

Account No: 2409-030AC-01900-000

Account No: 2409-00000-00101-000

Parcel 3

Lots 92 of TRACT 1318 - GILCHRIST TOWNSITE, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

Lot 3 of TRACT 1318 - GILCHRIST TOWNSITE, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

EXCEPTING THEREFROM: Beginning at a 5/8 inch iron rod marking the Southeast corner of Lot 4 TRACT 1318 - GILCHRIST TOWNSITE as shown on the original plat thereof, thence North 75 degrees 15' 28" West, 169.29 feet to a 5/8 inch iron rod; thence North 14 degrees 49' 53" East, 84.00 feet to a 5/8 inch iron rod marking the adjusted Northwest Lot Corner of Lot 4, of said Tract 1318 - Gilchrist Townsite, from which a 5/8 inch iron rod marking the original

(Legal continued)

(continued)

Northwest corner of Lot 4, Tract 1318 - Gilchrist Townsite as shown on the original plat thereof bears South 14 degrees 49' 53" West, 20.00 feet; thence South 75 degrees 15' 28" East, 170.34 feet to a 5/8 inch iron rod marking the Westerly right-of-way of Manzanita Street from which a 5/8 inch iron rod marking the original Northeast corner of Lot 4, Tract 1318 - Gilchrist Townsite as shown on the original plat thereof bears South 15 degrees 32' 50" West, 20.00 feet; thence South 15 degrees 32' 50" West, 84.01 feet along the said Westerly right-of-way of Manzanita Street to the point of beginning.

Account No: 2409-019DA-04100-000

Account No: 2409-019AD-00200-000

#### **Parcel 4 (Lakeshore)**

##### **Tract 1:**

A parcel of land situated in Lots 1 and 5, Section 25, Township 37 South, Range 8 East of the Willamette Meridian, in the County of Klamath, State of Oregon, and being more particularly described as follows:

Beginning at an iron rod monument on the Westerly right of way line of Shady Pine Road (originally The Dalles-California Highway), said point being South 05 degrees 01' 49" West, 1,335.29 feet from a brass cap monument at the Northeast corner of said Section 25; thence South 87 degrees 54' 00" West, 374.83 feet to an iron rod monument on the East line of the relocated The Dalles-California Highway No. 97; thence North 02 degrees 06' 00" West, 176.87 feet along said East line to a point, said point being 35 feet distant Easterly from, when measured at right angles to the centerline of said Highway at Station 328+73.4; thence North 87 degrees 54' 00" East, 15.00 feet; thence North 02 degrees 06' 00" West, parallel with and 50 feet distant from the centerline of said relocated highway, a distance of 50.95 feet to the Southwest corner of that property described in Volume M82 at Page 7839, Deed Records of Klamath County, Oregon; thence North 68 degrees 37' 20" East, along the South line of that property described in said Volume M82 at Page 7839, a distance of 223.35 feet, more or less, to the Westerly right of way line of said Shady Pine Road; thence Southeasterly along said Westerly right of way to the point of beginning.

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Tract 2:

A piece or parcel of land situated in the NE1/4 of Section 25, Township 37 South, Range 8 East of the Willamette Meridian, in the County of Klamath, State of Oregon, and being more particularly described as follows:

Beginning at an iron pipe on the Easterly right of way line of State Highway No. U.S. 97, as the same is presently located and constructed on the ground; from which the monument marking the meander corner common to Section 25, Township 37 South, Range 8 East of the Willamette Meridian and Section 30, Township 37 South, Range 9 East of the Willamette Meridian bears South 51 degrees 02-3/4' East 628.9 feet distant (said point of beginning being also 50.0 feet distant from when measured at right angles to, Station 329/24.3 of the centerline of said Highway No. 97); thence North 69 degrees 12-1/3' East 230.0 feet, more or less, to the Westerly right of way of the County Road (Old Highway No. 97), which point is 30.0 feet from, when measured at right angles to, the centerline of said County Road, and from which point an iron pipe reference monument bears North 69 degrees 12-1/3' East 10.0 feet distant; thence following the said Westerly right of way line of said County Road in a Northerly and Westerly direction to its intersection with the Easterly right of way line of said State Highway No. U.S. 97; thence Southerly and Easterly along the said Easterly right of way line of said State Highway to the point of beginning. The basis of bearings for the above description being South 1 degree 31' East for the centerline of the said State Highway from the said Station 329/24.3 Southerly.

EXCEPTING THEREFROM any portion lying within the State Highway right of way.

Account No: 3708-02500-00200-000

Account No: 3708-02500-00301-000

Account No: 3708-02500-00400-000

Account No: 3708-02500-00501-000

Parcel 5 (Mollies)

Tract 1:

A piece of parcel of land situated in the NE1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon and more particularly described as follows:

Beginning at an iron pipe which is South 0 degrees 06' West 323.4 feet and North 89 degrees 49' West 234.2 feet from the Northeast corner of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, which point of beginning is also the Northeast corner of that certain tract of land conveyed to Elmer W. and Flora M. Zigler on page 238, Deed Volume 278 of the Records of Klamath County, Oregon; thence North 89 degrees 49' West along the Northerly boundary of said tract of land conveyed on page 238 Deed Volume 278, a distance of 334.8 feet to an iron pipe set at its intersection with a line which is parallel to and 192.77 feet Northeasterly of, when measured at right angles to, the Northeasterly right of way line of the Dalles-California Highway (No. US 97) as the same is now located across said Section 19; thence North 38 degrees 52' West parallel to and 192.77 feet distant from said Northeasterly highway right of way line a distance of 147.25 feet to an iron pipe; thence South 89 degrees 49' East a distance of 427.3 feet to an iron pipe; thence South 0 degrees 06' West a distance of 114.35 feet more or less, to the point of beginning.

Tract 2:

Beginning at a point which is South 0 degrees 06' West a distance of 477.4 feet and North 89 degrees 49' West a distance of 234.2 feet from the Northeast corner of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon; thence North 0 degrees 06' East a distance of 154 feet to a point; thence North 89 degrees 49' West a distance of 336 feet, more or less, to a point on a line which is parallel to and distant 192.77 feet at right angles from the Northeasterly right of way line of the Dalles-California Highway; thence South 38 degrees 52' East a distance of 200 feet, more or less, to a point which is North 0 degrees 06' East a distance of 211.1 feet from the North line of Byrd Avenue in Chelsea Addition; thence South 89 degrees 49' East a distance of 210.2 feet to the place of beginning, being in the NE1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

(Legal continued)

(continued)

Tract 3:

All that portion of the NE1/4 NE1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the section corner common to Sections 17, 18, 19 and 20, said Township and Range; thence South 0 degrees 06' West along the East line of said Section 19, a distance of 388.5 feet to a point; thence North 89 degrees 49' West a distance of 174.2 feet to a point; thence South 0 degrees 06' West a distance of 300.0 feet to a point on the North line of Byrd Avenue; thence West along said North line a distance of 60 feet to a point; thence North 0 degrees 06' East a distance of 479.45 feet to a point; thence North 89 degrees 44' West a distance of 427.3 feet to a point; thence North 38 degrees 46' West a distance of 268.15 feet to a point on the North line of said Section 19; thence South 89 degrees 44' East along said North line a distance of 833.95 feet to the point of beginning.

EXCEPTING THEREFROM a tract of land situated in the NE1/4 NE1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the section corner common to Sections 17, 18, 19 and 20, said Township and Range; thence South 0 degrees 06' West along the East line of said Section 19, a distance of 388.5 feet to a point; thence North 89 degrees 49' West a distance of 174.2 feet to a point; thence South 0 degrees 06' West a distance of 89 feet to the True Point of Beginning of this description; thence continuing South 0 degrees 06' West a distance of 211 feet to a point on the North line of Byrd Avenue; thence West along said North line a distance of 60 feet to a point; thence North 0 degrees 06' East a distance of 211 feet to a point; thence South 89 degrees 49' East 60 feet to the point of beginning.

Tract 4:

Beginning at a point on the Northeasterly right of way line of State Highway No. 97 which lies South 0 degrees 06' West along the East section line a distance of 688.5 feet and North 89 degrees 49' West along the North line of Byrd Avenue in Chelsea Addition, a distance of 521.6 feet and North 38 degrees 52' West along the Northeasterly right of way line of State Highway No. 97 (Note: State

(Legal continued)

(continued)

Highway bearing of this line shows North 39 degrees 7 1/2' West) a distance of 130.55 feet from the iron axle which marks the Northeast corner of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, running thence; continuing North 38 degrees 52' West along the Northeasterly right of way line of State Highway No. 97, a distance of 250 feet to a point; thence North 51 degrees 08' East a distance of 192.77 feet to a point; thence South 38 degrees 52' East a distance of 250 feet to a point; thence South 51 degrees 08' West a distance of 192.77 feet, more or less to the point of beginning, in the NE1/4 NE1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

Account No: 3809-019AA-00100-000

Account No: 3809-019AA-00400-000

Account No: 3809-019AA-00500-000

Account No: 3809-019AA-00600-000

**Parcel 6 (Walker Range)**

**Legal Description:** A portion of the SE1/4 NE1/4 of Section 36, Township 24 South, Range 8 East of the Willamette Meridian, and being more particularly described as follows:

Beginning at the East quarter corner of Section 36, Township 24 South, Range 8 East of the Willamette Meridian; thence West along the East-West centerline of Section 36, 227.1 feet to the Easterly right of way line of Dalles-California Highway; thence North 25 degrees 50' East 292 feet along said right of way; thence East 102.8 feet to East line of said Section 36; thence South 0 degrees 39' West 264.3 feet to the point of beginning, Klamath County, Oregon.

Account No: 2408-036A0-01200-000

**ERNST BROTHERS, LLC**

**BY:**

*Wayne J. Ernst*  
Managing Member

*[Signature]*

*[Signature]*