

2012-008789

Klamath County, Oregon



00122505201200087890100108

08/09/2012 02:58:01 PM

Fee: \$82.00

RECORDING COVER SHEET

THIS COVER SHEET HAS BEEN PREPARED BY THE PERSON
PRESENTING THE ATTACHED INSTRUMENT FOR
RECORDING. ANY ERRORS IN THIS COVER SHEET
DO NOT AFFECT THE TRANSACTION(S) CONTAINED
IN THE INSTRUMENT ITSELF.

AFTER RECORDING RETURN TO:

Michael P. Rudd
Brandsness, Brandsness & Rudd, P.C.
411 Pine Street
Klamath Falls, or 97601

PARTIES:

William Hawthorne and Stacie Hawthorne
2550 Hawkins Street
Klamath Falls, OR 97601

And

Charles Bury and Lynn Bury
7677 Lower Klamath Lake Road
Klamath Falls, OR 97603

Document to be Recorded: Extension Agreement

RETURN TO:
Brandsness, Brandsness & Rudd, P.C.
411 Pine Street
Klamath Falls, OR 97601

EXTENSION AGREEMENT

DATED: May 10, 2012

BETWEEN: William H. Hawthorne and Stacie L. Hawthorne
2550 Hawkins Street
Klamath Falls, OR 97601 "Hawthorne"

AND Charles D. Bury and Lynn E. Bury
7677 Lower Klamath Lake Road
Klamath Falls, OR 97603 "Bury"

RECITALS:

On October 18, 2005, Bury sold a parcel of real property located in Klamath County, Oregon to Hawthorne for the sum of \$320,000.00.

To evidence the indebtedness, Hawthorne executed and delivered to Bury an Installment Note (the "Note") in the face amount of \$320,000.00. A copy of the Note is attached hereto as Exhibit "A" and by this reference incorporated herein.

In order to secure the payment upon the Note, Hawthorne also executed and delivered to Bury a Deed of Trust (the "Deed") pledging the real property sold as collateral for payment upon the debt. A copy of the Deed is attached hereto as Exhibit "B" and by this reference incorporated herein. Said Deed was recorded on October 27, 2005 at M05-67647, Klamath County real property records.

The Note has a balloon payment in which the entirety of principal and interest became due and payable on October 18, 2010.

The monthly payment upon the Note is \$2,023.00 due on the tenth day of each month.

Bury and Hawthorne desire to extend the due date upon the Note from October 18, 2010 until December 31, 2012 and to continue making lower monthly payments upon the Note.

Wherefore, the Parties agree as follows:

AGREEMENT:

1. The monthly payment upon the Note shall be reduced from \$2,023.00 per month to \$1,200.00 per month. The monthly payment shall be due on the tenth day of each month.

2. The balloon payment and due date for the satisfaction of the sums due and owing under the Note shall be extended from October 18, 2010 to December 31, 2012 at which time all sums of principal and interest then outstanding will become immediately due and payable.

3. The rest, remainder and entirety of the Note and Deed shall be unmodified and are hereby restated, republished, and reconfirmed in the entirety.

4. In consideration for Bury reducing the monthly payment and extending the due date upon the Note, Hawthorne acknowledges that such modification does not constitute a waiver of Bury's right to exercise Bury's remedies in the future including but not limited to the acceleration of the sums due and owing, and the exercise of Bury's rights under the Deed. By executing this Extension, Hawthorne will not raise a defense of waiver in the future nor claim that the "time is of the essence" clause in the Note has been waived.

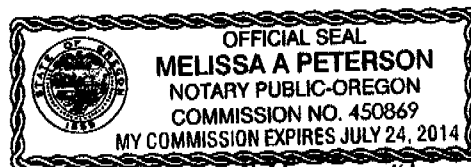
BURY:

Charles D. Bury
Charles D. Bury
Lynn E. Bury
Lynn E. Bury

HAWTHORNE

William H. Hawthorne
William H. Hawthorne
Staci L. Hawthorne
Staci L. Hawthorne

STATE OF OREGON)
) ss.
County of Klamath)



Personally appeared before me this 10 day of April 2012, the above-named William H. Hawthorne and Staci L. Hawthorne and acknowledged the foregoing instrument to be their voluntary act and deed.

Joanne L. Johnson
Notary Public for Oregon
My Commission expires: July 24, 2014

STATE OF OREGON)
) ss.
County of Klamath)

Personally appeared before me this 10 day of May 2012, the above-named Charles D. Bury and Lynn E. Bury and acknowledged the foregoing instrument to be their voluntary act and deed.



Joanne L. Johnson
Notary Public for Oregon
My Commission expires: May 17, 2012

INSTALLMENT NOTE
(Interest Included)

\$320,000.00

Dated: **October 18, 2005**
At: **Klamath Falls, OR**

I (or if more than one maker) We, jointly and severally promise to pay to the order of **CHARLES D. BURY and LYNN E. BURY, husband and wife with full rights of survivorship**, at the office of **First American Title Insurance Company of Oregon**, at **404 Main Street - Suite 1, Klamath Falls, OR. 97601**, the sum of **THREE HUNDRED TWENTY THOUSAND and NO/100 - - - - - dollars (\$320,000.00)** with interest thereon at the rate of **6.5 percent** per annum from **October _____, 2005**, until paid, principal and interest payable in installments of not less than **Two Thousand Twenty Three and No/100 - - - - - dollars (\$2,023.00)** in any one payment; each payment as made shall be applied first to accumulated interest and the balance to principal; the first payment to be made on **November _____, 2005**, and a like payment on the **same** day of each **month thereafter** until **October _____, 2010**, at which time all sums of principal and interest then outstanding shall become immediately due and payable; if any of said installments are not so paid, the whole sum of both principal and interest is to become immediately due and collectible at the option of the holder of this note. If this note is placed in the hands of an attorney for collection, I/we promise and agree to pay the reasonable attorneys' fees and collection costs of the holder hereof, and if suit or action is filed hereon, also promise to pay (1) holder's reasonable attorneys' fees to be fixed by trial court and (2) if any appeal is taken from any decision of the trial court, such further sum as may be fixed by the appellate court, as the holder's reasonable attorneys' fees in the appellate court.

ALL OR ANY PORTION OF THE DEBT SECURED BY THIS NOTE MAY BE PREPAID AT ANY TIME WITHOUT PENALTY.

THIS NOTE IS SECURED BY A TRUST DEED OF EVEN DATE.

William H. Hawthorne

Staci L. Hawthorne



After recording return to:
First American Title Insurance
Company of Oregon
404 Main Street-Suite 1
Klamath Falls, OR. 97601

File No.: 7021-691086 (MTA)
Date: October 18, 2005

THIS SPACE RESERVED FOR RECORDER'S USE

Map/Tax Lot # **3909-01600-01000**
Tax Account # **579733**

TRUST DEED

(Assignment Restricted)

THIS DEED OF TRUST, made this **Eighteenth day of October, 2005**, between **WILLIAM H. HAWTHORNE and STACI L. HAWTHORNE, husband and wife**, as GRANTOR, and **First American Title Insurance Company of Oregon**, as TRUSTEE, and **CHARLES D. BURY and LYNN E. BURY, husband and wife with full rights of survivorship**, as BENEFICIARY.

WITNESSETH: Grantor irrevocably conveys to Trustee in trust, with power of sale, certain real property in **Klamath County, Oregon**, described as:

See Legal Description attached hereto as Exhibit A and by this reference incorporated herein.

Together with all tenements, hereditaments and appurtenances, including easements, and all other rights thereunto belonging or in any way now or hereafter appertaining, and the rents, issues, and profits thereof, together with all fixtures now or hereafter attached to or used in connection with said real estate.

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 the state, its subsidiaries, affiliates, agents or branches, the United States or any agency thereof, or an escrow agent licensed under ORS 896.505 to 896.585.

***WARNING:** 12 USC 1701/-S regulates and may prohibit exercise of this option.

Page 1

EXHIBIT " B " 97
Page 1 of 6

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of Grantor herein contained and payment of the sum of **Three Hundred Twenty Thousand dollars (\$320,000.00)**, 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 **October _____, 2010.**

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.

Grantor agrees:

1. To protect, preserve and maintain the property in good condition and repair; not to remove or demolish any building or improvement therein; 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 therefore.
3. To provide and continuously maintain insurance on the buildings now or hereafter erected on the said property against loss or damage by fire and other hazards as the Beneficiary may require, in an amount not less than **\$320,000.00**, written by companies acceptable to the Beneficiary, with loss payable to Beneficiary; proof of insurance shall be delivered to the Beneficiary as soon as issued.
4. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting said property.
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 past due or delinquent and promptly deliver receipt of payment to Beneficiary.
6. 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 of Grantor, described in paragraphs 7 and 8 of this Trust Deed section, 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 herein before 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.
7. 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 together with trustees' and attorneys' fees actually incurred.
8. 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 evidence of title and the Beneficiary's or Trustee's attorneys' fees. The amount of attorneys' fees mentioned in this paragraph 7 above 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 attorneys' fees on such appeal.

The parties mutually agree:

1. In the event that any portion of the property is 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 attorneys' fees, both in the trial and appellate courts, necessarily paid or incurred by Beneficiary in such proceedings, be 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.

2. Upon any default by Grantor hereunder, Beneficiary may, at any time without notice, either in person, by 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 the 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 attorneys' fees upon any indebtedness secured hereby, in such order as Beneficiary may determine.

3. The entering upon and taking possession of the 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.

4. Upon default by Grantor in payment of any indebtedness secured hereby or in Grantor's performance of any agreement contained 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 Beneficiary, at its election, may proceed 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 a written notice of default and 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.

5. The Grantor and those persons authorized by ORS 86.753 may cure any default(s) 5 days before the date the Trustee has designated for sale. Any cure of default(s) shall require payment of or tendering performance and the payment of all costs and expenses actually incurred in enforcing the obligations of this Trust Deed, including, but not limited to, trustees' and attorneys' fees as authorized by law.

In the absence of any such cure, the Trustee will enforce the obligations of this Trust Deed in accordance with paragraph 4 herein and as authorized and required by applicable law.

6. 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 interest 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.

7. 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 an 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.

The Grantor covenants to and agrees with the Beneficiary and the Beneficiary's successors in interest that the Grantor is lawfully seized in fee simple of the real property and has a valid, unencumbered title thereto, except as may be set forth in any addendum or exhibit attached hereto, and that the Grantor will warrant and forever defend the same against all persons whomsoever.

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 singular number includes the plural.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand the day and year first above written.


William H. Hawthorne

Staci L. Hawthorne
Staci L. Hawthorne

STATE OF Oregon)
)ss.
County of Klamath)

This instrument was acknowledged before me on this _____ day of _____, 20____
by **William H. Hawthorne and Staci L. Hawthorne.**

Notary Public for Oregon

My commission expires: March 22, 2009

APN: 579733

Trust Deed - continued

File No.: 7021-691086 (MTA)

Date: 10/18/2005

REQUEST FOR FULL RECONVEYANCE (To be used only when obligations have been paid.)

TO: First American Title Insurance Company of Oregon, Trustee

The undersigned is the legal owner and holder of all indebtedness secured by the foregoing trust deed. All sums secured by the 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 the trust deed or pursuant to statute, to cancel all evidences of indebtedness secured by the trust deed (which are delivered to you herewith together with the trust deed) and to reconvey, without warranty, to the parties designated by the terms of the trust deed, the estate now held by you under the same.

Mail Reconveyance to:

Dated: _____

By _____

By _____

By _____

Beneficiary

**Do not lose or destroy this Deed of Trust OR THE NOTE which it secures.
Both must be delivered to the Trustee before cancellation before reconveyance is made.**

EXHIBIT A**LEGAL DESCRIPTION:**

A tract of land situated in the SE 1/4 of Section 16, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a point on the West right of way line of Washburn Way, from which the Southeast corner of said Section 16 bears South 89°48'51" East 30.00 feet and South 00°11'09" West 752.06 feet; thence North 89°48'51" West 190.00 feet; thence South 79°58'39" West 56.43 feet, thence South 79°58'39" West 249.31 feet to the Northwestern right of way line of the Southern Pacific Railroad; thence North 33°30'54" West along said right of way line, 1672.84 feet to the Southwesterly right of way line of the Southside Expressway; thence along said Southwesterly right of way 1753 feet more or less to the West right of way line of Washburn Way; thence South 00°11'09" West 452.77 feet to the point of beginning.

EXCEPTING the area lying within the USBR 1-G-Drain

AND EXCEPTING THEREFROM that portion thereof conveyed to Klamath County for road purposes (Washburn Way) by Warranty Deed recorded May 3, 1996 in Volume M96 page 12695, Records of Klamath County, Oregon.