

DESCHUTES COUNTY OFFICIAL RECORDS  
NANCY BLANKENSHIP, COUNTY CLERK

2004-36136



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# DESCHUTES COUNTY CLERK

## CERTIFICATE PAGE



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AFTER RECORDING RETURN TO:  
DESCHUTES COUNTY  
PROPERTY MANAGEMENT  
1130 NW HARRIMAN  
BEND, OR 97701

CORRECTED  
**TRUST DEED**

**THIS TRUST DEED**, made this 17<sup>th</sup> day of June, 2004, between **CITY OF REDMOND, OREGON**, as Trustor, and **FIRST AMERICAN TITLE COMPANY**, as Trustee, and **DESCHUTES COUNTY, OREGON**, as Beneficiary,

**WITNESSETH:**

Trustor irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property in DESCHUTES County, State of Oregon, and generally described as follows:

Tax Lot 15130000-00119 consisting of approximately 09.55 acres  
Tax Lot 15130000-00122 consisting of approximately 39.24 acres  
Tax Lot 15130000-00129 consisting of approximately 73.59 acres

and more particularly described in Exhibit A attached to this Agreement.

together with all the tenements, hereditaments and appurtenances and all other rights thereunto belonging or in anyway 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 the sale agreement between Trustor and Trustee dated June 17<sup>th</sup>, 2004, which includes the payment of the sum of One Million Seven Hundred Forty Seven Thousand Dollars (\$1,747,000.00), with interest thereon according to the terms of the sale agreement 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 June 17<sup>th</sup>, 2014.

**The above described real property is not currently used for agricultural, timber or grazing purposes.**

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 full replacement value, 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 trustor 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 trustor'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 trustor. Such application or 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 past due or delinquent and promptly deliver receipts therefor to beneficiary; should the trustor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable by trustor, 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 hereinbefore described, as well as the trustor, 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, trustor 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 or 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 trustor 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 trustor 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 presentation of this deed and the note for 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 thereof;
- D. Reconvey, without warranty, all or any part of the property. The trustee 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 \$45.

10. Upon any default by trustor 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 said property or any part thereof, in its own name sue or otherwise collect the rent, 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 of 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 trustor in payment of any indebtedness secured hereby or in his performance of any agreement hereunder, the beneficiary may declare all sums secured hereby immediately due and payable. In such an 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. In the latter event the beneficiary or the trustee shall execute and cause to be recorded his written notice of default and election to sell the said described real property to satisfy the obligations secured hereby, whereupon the trustee shall fix the time and place of sale, give notice thereof as then provided by law and proceed to foreclose this trust deed in the manner provided in ORS 86.725 to 86.795.

13. Should the beneficiary elect to foreclose by advertisement and sale, then after default at any time prior to five days before the date set by the trustee for the trustee's sale, the trustor or other person so privileged by ORS 86.755, may pay to the beneficiary or his successors in interest, respectively, the entire amount then due under the terms of the trust deed and the obligation secured thereby (including costs and expenses actually incurred in enforcing the terms of the obligation and trustee's and attorney's fees not exceeding the amounts provided by law) other than such portion of the principal as would not then be due had no default occurred, and thereby cure the default, in which event all foreclosure proceedings shall be dismissed by the trustee.

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 the 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 trustor or to his successor in interest entitled to such surplus.

16. For any reason permitted by law 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, containing reference to this trust deed and its place of record, which, when recorded in the office of the county clerk or recorder 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 trustor, beneficiary or trustee shall be a party unless such action or proceeding is brought by trustee.

The trustor covenants and agrees to and with the beneficiary and those claiming under him, that it is lawfully seized in fee simple of said described real property and has a valid, unencumbered title thereto and that it will warrant and forever defend the same against all persons whomsoever.

18. Beneficiary agrees to release the trust deed from any portion of the property upon the request by trustor and the payment by trustor the sum of .33 per square foot for the property to be released from this trust deed.

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 trustor has hereunto set his hand the day and year first above written.

CITY OF REDMOND, OREGON

Paul C. Hathaway  
ALAN UNGER, Mayor  
Paul C. Hathaway, Council President

STATE OF OREGON

County of Deschutes

} ss:

Personally appeared before me this 17<sup>th</sup> day of June, 2004, ALAN UNGER, Mayor for the City of Redmond and acknowledged that he has the authority to sign this instrument on behalf of the City of Redmond and that the foregoing instrument to be its voluntary act and deed.

Paul C. Hathaway, Council President



Patricia I. Leymaster  
Notary Public for Oregon  
My Commission Expires: 7-20-2007

**QUEST 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: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
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.

DESCRIPTION FOR THE CITY OF REDMOND, BEING A  
PORTION OF PARCEL 1 OF PARTITION PLAT NO. 2001-29,  
AS CONFIGURED IN DESCHUTES COUNTY ADJUSTMENT  
LLA 01-07(D), LOCATED IN SECTIONS 10 AND 11,  
TOWNSHIP 15 SOUTH, RANGE 13 EAST, W.M.,  
DESCHUTES COUNTY, OREGON

DESCHUTES COUNTY TO THE CITY OF REDMOND

COMMENCING AT A 3-1/4" BRASS CAP MONUMENTING THE CORNER  
COMMON TO SECTIONS 10, 11, 14 AND 15, TOWNSHIP 15 SOUTH,  
RANGE 13 EAST, WILLAMETTE MERIDIAN, THE INITIAL POINT, AS  
WELL AS THE POINT OF BEGINNING; THENCE S89°51'59"W ALONG THE  
LINE COMMON TO SAID SECTIONS 10 AND 15 - 1324.58 FEET TO A  
3/4" PIPE MONUMENTING THE E1/16 CORNER COMMON TO SAID  
SECTIONS 10 AND 15; THENCE N00°10'42"W ALONG THE WEST LINE  
OF THE SE1/4 OF THE SE1/4 OF SAID SECTION 10 - 1318.75 FEET  
TO A 3/4" PIPE MONUMENTING THE SE1/16 CORNER OF SAID SECTION  
10, AS WELL AS MONUMENTING THE SOUTHWEST CORNER OF PARCEL 2  
OF DESCHUTES COUNTY PARTITION PLAT NO. 2001-29; THENCE ALONG  
THE BOUNDARY OF SAID PARCEL 2 AS FOLLOWS: N00°10'41"W -  
1288.95 FEET TO A 5/8" REBAR; THENCE N89°49'03"E - 531.27  
FEET TO A 5/8" REBAR; THENCE N00°15'12"W - 470.01 FEET TO A  
5/8" REBAR; THENCE S89°48'56"W - 531.18 FEET TO A 5/8"  
REBAR; THENCE N00°14'47"W - 849.92 FEET TO A 5/8" REBAR;  
THENCE N89°48'47"E - 1323.10 FEET TO A 5/8" REBAR; THENCE  
S00°18'49"E - 1290.01 FEET TO A 3-1/4" ALUMINUM CAP  
MONUMENTING THE 1/4 CORNER COMMON TO SAID SECTIONS 10 AND 11;  
THENCE S00°10'38"E ALONG SAID PARCEL 2 BOUNDARY - 1319.47  
FEET TO 3/4" PIPE MONUMENTING THE S1/16 CORNER COMMON TO  
SAID SECTIONS 10 AND 11, AND MONUMENTING THE SOUTHEAST  
CORNER OF SAID PARCEL 2; THENCE LEAVING SAID PARCEL 2  
BOUNDARY - S00°10'40"E ALONG THE LINE COMMON TO SAID  
SECTIONS 10 AND 11 - 659.67 FEET TO 3/4" PIPE ON THE NORTH  
LINE OF THE SW1/4 OF THE SW1/4 OF THE SW1/4 OF SAID SECTION  
11; THENCE S89°48'03"E ALONG SAID NORTH LINE - 657.54 FEET  
TO A 3/4" PIPE ON THE EAST LINE OF SAID SW1/4 SW1/4 SW1/4;  
THENCE S00°11'21"E ALONG SAID EAST LINE - 659.73 FEET TO A  
3/4" PIPE ON THE LINE COMMON TO SAID SECTIONS 11 AND 14;  
THENCE N89°47'46"W ALONG SAID COMMON LINE - 657.67 FEET TO  
THE POINT OF BEGINNING.

THE SAME CONTAINING APPROXIMATELY 123.66 ACRES, SUBJECT TO  
ALL EXISTING EASEMENTS AND RIGHTS-OF-WAY OVER AND ACROSS THE  
ABOVE DESCRIBED PARCEL OF LAND, NOTING THAT THE SOUTH 30  
FEET OF SAID PARCEL IS A RIGHT-OF-WAY FOR EAST ANTLER  
AVENUE, CONTAINING APPROXIMATELY 1.37 ACRES.

EXHIBIT     A      
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