

6422

321848

KNOW ALL MEN BY THESE PRESENTS, that EDWARD I. FOSNER and MARIE FOSNER, husband and wife, hereinafter called the grantor, for the consideration hereinafter stated, to grantor paid by the CITY OF SHERWOOD, a municipal corporation of the State of Oregon, hereinafter called the grantee do hereby grant, bargain, sell and convey unto said grantee and grantee's successors and assigns, that certain real property with the tenements, hereditaments and appurtenances thereunto belonging or appertaining, situated in the County of Washington, State of Oregon, described as follows:

A perpetual right-of-way and easement for public road, street and utility purposes, on, over, across, along, under and within that portion of Owners' premises described in instrument of record in Book 321, page 104, (Tax Lot 6100) Records of Washington County, Oregon, included within a strip of land 50 feet in width, being 25 feet on each side when measured at right angles of the center line of South Sherwood Boulevard said center line being described as follows:

Beginning at the point of intersection of the center line of S.W. Railroad Street with the center line of N.W. Main Street, said beginning point bearing South 87°33'20" E 39.05 feet from the initial point of "Smockville" running thence on a 184.80 foot radius curve to the right 103.91 feet along the arc (central angle = 32°13'02" and the long chord bears S 28°08'29" E 102.55 feet); thence S 10°01'58" E 285.51 feet; thence on a 950.00 foot radius curve to the right 200.43 feet along the arc (central angle = 12°04'18" and the long chord bears S 03°59'19" E 200.06 feet); thence South 02°03'20" West 767.30 feet to an angle point; thence S 00°08'51" E 729.08 feet to an 5/8 inch iron rod and the terminus of centerline, said terminus point bearing N 44°46'29" E 1847.07 feet from the Southwest corner of Section 32.

SUBJECT TO easements, conditions and restrictions of public record, and rights of the public to any portion within roads and highways, and the usual printed exceptions of title policies.

To Have and To Hold the same unto the said grantee and grantee's successors and assigns forever.

And said grantor hereby covenants to and with the said grantee and grantee's successors and assigns, that grantor will warrant and forever defend the above granted premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, except those claiming under the above described encumbrances.

The true and actual consideration paid for this transfer is \$1,000.00.

In construing this deed and where the context so requires, the singular includes the plural.

E. I. Fosner
Marie Fosner

pta 251 3280 6100

EX 865 443

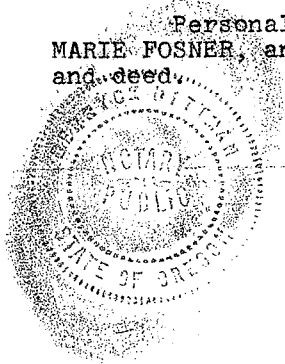
6422

STATE OF OREGON
County of Washington

}
} ss.

March 31 1972.

Personally appeared the above named EDWARD I. FOSNER and MARIE FOSNER, and acknowledged the foregoing to be their free act and deed.



Edward I. Fosner
Notary Public for Oregon
My Comm. Expires: 9/28/74

STATE OF OREGON
COUNTY OF WASHINGTON
RECORDED
MAY 3 1972
BOOK 865 PAGE 444
L. O. BOX 3300
AFFORNEY AT LAW
VIGELSON & DITTMAN

After recording, return to:

INDEXED

STATE OF OREGON
County of Washington

} ss.

I, Roger Thomssen, Director of Records and Elections and Ex-Officio Recorder of Conveyances for said county, do hereby certify that the within instrument of writing was received and recorded in book of records

No. _____
of said County

Witness my hand and seal affixed.
ROGER THOMSEN, Director of
Records & Elections

MAY 3 2 43 PM '72 Deputy *TC*

BOOK 865 PAGE 444

Recorded Document

1972-6422

ROW Easement, South Sherwood
Blvd, Fosner to City

Reference Pages

Title Insurance Company

Policy # 321848

Not a part of record. For reference use only.

from



POLICY OF TITLE INSURANCE

ISSUED BY

Title Insurance Company of Oregon

TITLE INSURANCE COMPANY OF OREGON, a corporation, (incorporated under the laws of the State of Oregon), hereinafter called the Company, for a valuable consideration paid for this policy of title insurance, the number, date, and amount of which are shown in Schedule A, does hereby insure the parties named as Insured in Schedule A, the heirs, devisees, personal representatives of such Insured, or if a corporation, its successors by dissolution, merger or consolidation, against direct loss or damage not exceeding the amount stated in Schedule A, together with costs, attorneys' fees and expenses which the Company may be obligated to pay as provided in the Conditions and Stipulations hereof, which the Insured shall sustain by reason of:

1. Title to the land described in Schedule A being vested, at the date hereof, otherwise than as herein stated; or
2. Unmarketability, at the date hereof, of the title to said land of any vestee named herein, unless such unmarketability exists because of defects, liens, encumbrances, or other matters shown or referred to in Schedule B; or
3. Any defect in, or lien or encumbrance on, said title existing at the date hereof, not shown or referred to in Schedule B, or excluded from coverage in the Conditions and Stipulations; or
4. Any defect in the execution of any mortgage or deed of trust shown in Schedule B securing an indebtedness, the owner of which is insured by this policy, but only insofar as such defect affects the lien or charge of such mortgage or deed of trust upon said land; or
5. Priority, at the date hereof over any such mortgage or deed of trust, of any lien or encumbrance upon said land, except as shown in Schedule B such mortgage or deed of trust being shown in the order of its priority.

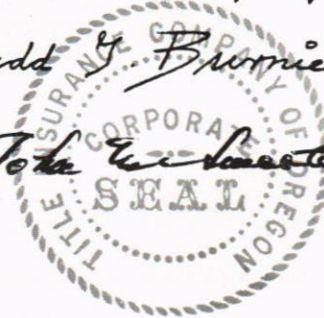
all subject, however, to SCHEDULES A and B, and the CONDITIONS and STIPULATIONS herein, all of which are hereby made a part of this policy.

In witness whereof, TITLE INSURANCE COMPANY OF OREGON has caused its corporate name and seal to be hereunto affixed and authenticated by the facsimile signatures of its President and Secretary, provided this policy is valid only when countersigned by a duly authorized officer of the corporation.

Title Insurance Company of Oregon

BY *Budd G. Brownie* PRESIDENT

ATTEST *John E. ...* SECRETARY



Countersigned

[Signature]
Authorized Officer

CONDITIONS AND STIPULATIONS

(Includes those in the American Land Title Association-Owner's Policy—Standard Form B-1962)

1. DEFINITION OF TERMS

The following terms when used in this policy mean:

(a) "land": the land described, specifically or by reference, in Schedule A and improvements affixed thereto which by law constitute real property;

(b) "public records": those records which impart constructive notice of matters relating to said land;

(c) "knowledge": actual knowledge, not constructive knowledge or notice which may be imputed to the Insured by reason of any public records;

(d) "date": the effective date;

(e) "mortgage": mortgage, deed of trust, trust deed, or other security instrument; and

(f) "insured": the party or parties named as Insured, and if the owner of the indebtedness secured by a mortgage shown in Schedule B is named as an Insured in Schedule A, the Insured shall include (1) each successor in interest in ownership of such indebtedness, (2) any such owner who acquires the estate or interest referred to in this policy by foreclosure, trustee's sale, or other legal manner in satisfaction of said indebtedness, and (3) any federal agency or instrumentality which is an insurer or guarantor under an insurance contract or guaranty insuring or guaranteeing said indebtedness, or any part thereof, whether named as an Insured herein or not, subject otherwise to the provisions hereof.

2. BENEFITS AFTER ACQUISITION OF TITLE

If an insured owner of the indebtedness secured by a mortgage described in Schedule B acquires said estate or interest, or any part thereof, by foreclosure, trustee's sale, or other legal manner in satisfaction of said indebtedness, or any part thereof, or if a federal agency or instrumentality acquires said estate or interest, or any part thereof, as a consequence of an insurance contract or guaranty insuring or guaranteeing the indebtedness secured by a mortgage covered by this policy, or any part thereof, this policy shall continue in force in favor of such Insured, agency or instrumentality, subject to all of the conditions and stipulations hereof.

3. EXCLUSIONS FROM THE COVERAGE OF THIS POLICY

This policy does not insure against loss or damage by reason of the following:

(a) Any law, ordinance or governmental regulation (including but not limited to building and zoning ordinances) restricting or regulating or prohibiting the occupancy, use or enjoyment of the land, or regulating the character, dimensions, or location of any improvement now or hereafter erected on said land, or prohibiting a separation in ownership or a reduction in the dimensions or area of any lot or parcel of land.

(b) Governmental rights of police power or eminent domain unless notice

of the exercise of such rights appears in the public records at the date hereof.

(c) Title to any property beyond the lines of the land expressly described in Schedule A, or title to streets, roads, avenues, lanes, way or waterways on which such land abuts, or the right to maintain therein vaults, tunnels, ramps or any other structure or improvement; or any rights or easements therein unless this policy specifically provides that such property, rights or easements are insured, except that if the land abuts upon one or more physically open streets or highways this policy insures the ordinary rights of abutting owners for access to one of such streets or highways, unless otherwise excepted or excluded herein.

(d) Defects, liens, encumbrances, adverse claims against the title as insured or other matters (1) created, suffered, assumed or agreed to by the Insured claiming loss or damage; or (2) known to the Insured Claimant either at the date of this policy or at the date such Insured Claimant acquired an estate or interest insured by this policy and not shown by the public records, unless disclosure thereof in writing by the Insured shall have been made to the Company prior to the date of this policy; or (3) resulting in no loss to the Insured Claimant; or (4) attaching or created subsequent to the date hereof.

(e) Loss or damage which would not have been sustained if the Insured were a purchaser or encumbrancer for value without knowledge.

(f) Usury or claims of usury.

(g) "Consumer credit protection," "truth in lending," or similar law.

4. DEFENSE AND PROSECUTION OF ACTIONS—NOTICE OF CLAIM TO BE GIVEN BY THE INSURED

(a) The Company, at its own cost and without undue delay shall provide (1) for the defense of the Insured in all litigation consisting of actions or proceedings commenced against the Insured, or defenses, restraining orders, or injunctions interposed against a foreclosure or sale of the mortgage and indebtedness covered by this policy or a sale of the estate or interest in said land, or (2) for such action as may be appropriate to establish the title of the estate or interest or the lien of the mortgage as insured, which litigation or action in any of such events is founded upon an alleged defect, lien or encumbrance insured against by this policy, and may pursue any litigation to final determination in the court of last resort.

(b) In case any such action or proceeding shall be begun, or defense interposed, or in case knowledge shall come to the Insured of any claim of title or interest which is adverse to the title of the estate or interest or lien of the mortgage as insured, or which might cause loss or damage for which the Company shall or may be liable by virtue of this policy, or if the Insured shall in good

faith contract to sell the indebtedness secured by a mortgage covered by this policy, or, if an Insured in good faith leases or contracts to sell, lease or mortgage the same, or if the successful bidder at a foreclosure sale under a mortgage covered by this policy refuses to purchase and in any such event the title to said estate or interest is rejected as unmarketable, the Insured shall notify the Company thereof in writing. If such notice shall not be given to the Company within ten days of the receipt of process or pleadings or if the Insured shall not, in writing, promptly notify the Company of any defect, lien or encumbrance insured against which shall come to the knowledge of the Insured, or if the Insured shall not in writing, promptly notify the Company of any such rejection by reason of claimed unmarketability of title, then all liability of the Company in regard to the subject matter of such action, proceeding or matter shall cease and terminate; provided, however, that failure to notify shall in no case prejudice the claim of any Insured unless the Company shall be actually prejudiced by such failure and then only to the extent of such prejudice.

(c) The Company shall have the right at its own cost to institute and prosecute any action or proceeding or do any other act which in its opinion may be necessary or desirable to establish the title of the estate or interest or the lien of the mortgage as insured; and the Company may take any appropriate action under the terms of this policy whether or not it shall be liable thereunder and shall not thereby concede liability or waive any provision of this policy.

(d) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding, the Insured shall secure to it the right to so prosecute or provide defense in such action or proceeding, and all appeals therein, and permit it to use, at its option, the name of the Insured for such purpose. Whenever requested by the Company the Insured shall give the Company all reasonable aid in any such action or proceeding in effecting settlement, securing evidence, obtaining witnesses, or prosecuting or defending such action or proceeding, and the Company shall reimburse the Insured for any expense so incurred.

5. NOTICE OF LOSS — LIMITATION OF ACTION

In addition to the notices required under paragraph 4 (b), a statement in writing of any loss or damage for which it is claimed the Company is liable under this policy shall be furnished to the Company within sixty days after such loss or damage shall have been determined and no right of action shall accrue to the Insured under this policy until thirty days after such statement shall have been furnished, and no recovery shall be had by the Insured under this policy unless action shall be commenced thereon within five years after expiration of said thirty

SCHEDULE A

Amount \$1,000.00

Date May 3, 1972

At 2:43 P.M.

INSURED

---CITY OF SHERWOOD---

easement

The fee simple title to said ~~lands~~ ^{easement}, at the date hereof, vested in

CITY OF SHERWOOD, a municipal corporation of the State of Oregon,---

The land referred to in this policy is described as:

See EXHIBIT "A" attached;

EXHIBIT "A"

A perpetual right-of-way and easement for public road, street and utility purposes, on, over, across, along, under and within that portion of Owners' premises described in instrument of record in Book 321, page 104, (Tax Lot 6100), Records of Washington County, Oregon, included within a strip of land 50 feet in width, being 25 feet on each side when measured at right angles of the center line of South Sherwood Boulevard said center line being described as follows:

Beginning at the point of intersection of the center line of S.W. Railroad Street with the center line of N.W. Main Street, said beginning point bearing South $87^{\circ}33'20''$ E 39.05 feet from the initial point of "Smockville" running thence on a 184.80 foot radius curve to the right 103.91 feet along the arc (central angle = $32^{\circ}13'02''$ and the long chord bears S $28^{\circ}08'29''$ E 102.55 feet); thence S $10^{\circ}01'58''$ E 285.51 feet; thence on a 950.00 foot radius curve to the right 200.43 feet along the arc (central angle = $12^{\circ}04'18''$ and the long chord bears S $03^{\circ}59'19''$ E 200.06 feet); thence S $02^{\circ}03'20''$ W 767.30 feet to an angle point; thence S $00^{\circ}08'51''$ E 729.08 feet to an $5/8$ inch iron rod and the terminus of centerline, said terminus point bearing N $44^{\circ}46'29''$ E 1847.07 feet from the Southwest corner of Section 32.

SCHEDULE B

This policy does not insure against loss by reason of the matters shown or referred to in this Schedule except to the extent that the owner of any mortgage or deed of trust is expressly insured in Paragraphs numbered 4 and 5 on page 1 of this policy.

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; pending proceedings for vacating, opening or changing of streets or highways preceding entry of the ordinance or order therefor.

2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.

3. Easements, claims of easement or encumbrances which are not shown by the public records; unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.

4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other facts which a correct survey would disclose.

5. Easement, including the terms and provisions thereof, granted to the City of Sherwood, dated April 6, 1950, recorded January 18, 1968, in Book 677, Page 407, Washington County Film Records.---

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day period. Failure to furnish such statement of loss or damage, or to commence such action within the time hereinbefore specified, shall be a conclusive bar against maintenance by the Insured of any action under this policy.

6. OPTION TO PAY, SETTLE OR COMPROMISE CLAIMS

The Company shall have the option to pay or settle or compromise for or in the name of the Insured any claim insured against or to pay the full amount of this policy, or, in case loss is claimed under this policy by the owner of the indebtedness secured by a mortgage covered by this policy, the Company shall have the option to purchase said indebtedness; such purchase, payment or tender of payment of the full amount of this policy, together with all costs, attorneys' fees and expenses which the Company is obligated hereunder to pay, shall terminate all liability of the Company hereunder. In the event, after notice of claim has been given to the Company by the Insured, the Company offers to purchase said indebtedness, the owner of such indebtedness shall transfer and assign said indebtedness and the mortgage securing the same to the Company upon payment of the purchase price.

7. PAYMENT OF LOSS

(a) The liability of the Company under this policy shall in no case exceed, in all, the actual loss of the Insured and costs and attorneys' fees which the Company may be obligated hereunder to pay.

(b) The Company will pay, in addition to any loss insured against by this policy, all costs imposed upon the Insured in litigation carried on by the Company for the Insured, and all costs and attorneys' fees in litigation carried on by the Insured with the written authorization of the Company.

(c) No claim for damages shall arise or be maintainable under this policy (1) if the Company, after having received notice of an alleged defect, lien or encumbrance not excepted or excluded herein removes such defect, lien or encumbrance within a reasonable time after receipt of such notice, or (2) for liability voluntarily assumed by the Insured in settling any claim or suit without written consent of the Company, or (3) in the event the title is rejected as unmarketable because of a defect, lien or encumbrance not excepted or excluded in this policy, until there has been a final determination by a court of competent jurisdiction sustaining such rejection.

(d) All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of the insurance pro tanto and no payment shall be made without producing this policy for endorsement of such payment unless the policy be lost or destroyed in which case proof of such loss or destruction shall be furnished to the satisfaction of the Company; provided, however, if the owner of an indebtedness secured by a mortgage shown in Schedule B is an Insured herein then such payments shall not reduce pro tanto the amount of the insurance afforded hereunder as to such

Insured, except to the extent that such payments reduce the amount of the indebtedness secured by such mortgage. Payment in full by any person or voluntary satisfaction or release by the Insured of a mortgage covered by this policy shall terminate all liability of the Company to the insured owner of the indebtedness secured by such mortgage, except as provided in paragraph 2 hereof.

(e) When liability has been definitely fixed in accordance with the conditions of this policy the loss or damage shall be payable within thirty days thereafter.

8. LIABILITY NONCUMULATIVE

It is expressly understood that the amount of this policy is reduced by any amount the Company may pay under any policy insuring the validity or priority of any mortgage shown or referred to in Schedule B hereof or any mortgage hereafter executed by the Insured which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment to the Insured under this policy. The provisions of this paragraph numbered 8 shall not apply to an Insured owner of an indebtedness secured by a mortgage shown in Schedule B unless such Insured acquires title to said estate or interest in satisfaction of said indebtedness or any part thereof.

9. COINSURANCE AND APPORTIONMENT

(a) In the event that a partial loss occurs after the Insured makes an improvement subsequent to the date of this policy, and only in that event, the Insured becomes a coinsurer to the extent hereinafter set forth.

If the cost of the improvement exceeds twenty per centum of the amount of this policy, such proportion only of any partial loss established shall be borne by the Company as one hundred twenty per centum of the amount of this policy bears to the sum of the amount of this policy and the amount expended for the improvement. The foregoing provisions shall not apply to costs and attorneys' fees incurred by the Company in prosecuting or providing for the defense of actions or proceedings, in behalf of the Insured pursuant to the terms of this policy or to costs imposed on the Insured in such actions or proceedings, and shall apply only to that portion of losses which exceed in the aggregate ten per cent of the face of the policy.

Provided, however, that the foregoing coinsurance provisions shall not apply to any loss arising out of a lien or encumbrance for a liquidated amount which existed on the date of this policy and was not shown in Schedule B; and provided further, such coinsurance provisions shall not apply to any loss if, at the time of the occurrence of such loss, the then value of the premises, as so improved, does not exceed one hundred twenty per centum of the amount of this policy.

(b) If the land described or referred to in Schedule A is divisible into separate and noncontiguous parcels, or if contiguous and such parcels are not used as one single site, and a loss is established affecting one or more of said parcels but not all, the loss shall be computed and

settled on a pro rata basis as if the face amount of this policy was divided pro rata as to the value on the date of this policy of each separate independent parcel to the whole, exclusive of any improvements made subsequent to the date of this policy, unless a liability or value has otherwise been agreed upon as to each such parcel by the Company and the Insured at the time of the issuance of this policy and shown by an express statement herein or by an endorsement attached hereto.

10. SUBROGATION UPON PAYMENT OR SETTLEMENT

Whenever the Company shall have settled a claim under this policy, all right of subrogation shall vest in the Company unaffected by any act of the Insured, and it shall be subrogated to and be entitled to all rights and remedies which the Insured would have had against any person or property in respect to such claim had this policy not been issued. If the payment does not cover the loss of the Insured, the Company shall be subrogated to such rights and remedies in the proportion which said payment bears to the amount of said loss. If loss should result from any act of the Insured, such act shall not void this policy, but the Company, in that event, shall be required to pay only that part of any losses insured against hereunder which shall exceed the amount, if any, lost to the Company by reason of the impairment of the right of subrogation. The Insured, if requested by the Company, shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect such right of subrogation, and shall permit the Company to use the name of the Insured in any transaction or litigation involving such rights or remedies.

If the Insured is the owner of the indebtedness secured by a mortgage covered by this policy, such Insured may release or substitute the personal liability of any debtor or guarantor, or extend or otherwise modify the terms of payment, or release a portion of the estate or interest from the lien of the mortgage, or release any collateral security for the indebtedness, provided such act does not result in any loss of priority of the lien of the mortgage.

11. POLICY ENTIRE CONTRACT

Any action or actions or rights of action that the Insured may have or may bring against the Company arising out of the status of the lien of the mortgage covered by this policy or the title of the estate or interest insured herein must be based on the provisions of this policy.

No provision or condition of this policy can be waived or changed except by writing endorsed hereon or attached hereto signed by the President, a Vice-President, the Secretary, and Assistant Secretary or other validating officer of the Company.

12. NOTICES, WHERE SENT

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the *number of this policy* and shall be addressed to it at the office which issued this policy or to its main office at 425 S. W. Fourth Ave., Portland, Oregon 97204.



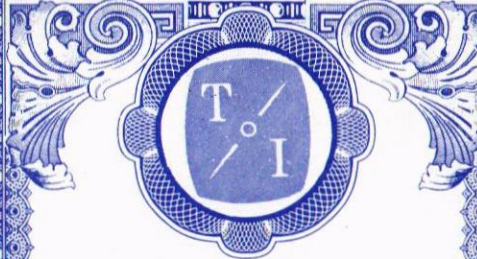
*Title Insurance
Company
of Oregon*

MAIN OFFICE
425 S. W. FOURTH AVENUE
(Near Washington Street)
PORTLAND, OREGON 97204
PHONE 222-3651

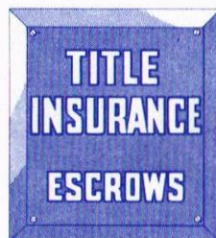
EAST SIDE OFFICE
29 N. E. 122ND AVENUE
PORTLAND, OREGON 97230
255-9103

WASHINGTON COUNTY OFFICE
12012 S. W. Canyon Road
Beaverton, Oregon 97005
646-8181

CLACKAMAS COUNTY OFFICE
112—11TH STREET
OREGON CITY, OREGON 97045
656-5243



TITLE
INSURANCE
POLICY



*Title Insurance
Company
of Oregon*

425 S. W. FOURTH AVENUE
(Near Washington Street)
PORTLAND, OREGON 97204

PHONE 222-3651

AGENCY OFFICES IN:

CROOK COUNTY
Central Oregon Title & Loan Co.
330 Beaver Street
Prineville, Oregon

DESCHUTES COUNTY
Deschutes Co. Title Insurance Co.
1030 Bond Street
Bend, Oregon

DOUGLAS COUNTY
Commercial Title Company
563 S. E. Main Street
Roseburg, Oregon

JACKSON COUNTY
Crater Title Insurance Co.
604 West Main Street
Medford, Oregon

JOSEPHINE COUNTY
Josephine County Title Company
507 N. E. 6th Street
Grants Pass, Oregon

KLAMATH COUNTY
Klamath County Title Co.
422 Main Street
Klamath Falls, Oregon

LANE COUNTY
Pioneer Title Co. of Lane County
818 Pearl Street
Eugene, Oregon

LINN COUNTY
Willamette Valley Title Co.
310 West Third Avenue
Albany, Oregon

MARION COUNTY
Willamette Valley Title Co.
318 Church Street N. E.
Salem, Oregon

WALLOWA COUNTY
Wallowa Title Co.
119 West Main Street
Enterprise, Oregon

E.I. Fosner, et ux to City of
Sherwood - Closing Statement

Purchase consideration:	\$1,000.00
Less title report	<u>50.00</u>
Net to E.I. Fosner, et ux	<u>\$950.00</u>

Receipt of the sum of \$950.00 less \$50.00 deducted for
title report is hereby acknowledged this 10 day of May,
1972.

Edward I. Fosner
Maire Fosner