

15277

Tel 744/5025

1 THIS MORTGAGE, made this 1st day of June, 1967, by and between LOTTIE M.
2 MILLER, a single woman; W. DON MILLER; and W. D. MILLER CONSTRUCTION CO., an
3 Oregon Corporation, as Mortgagors, and BEE HIVE AUTO LEASE, a co-partnership
4 consisting of ELBERT W. STILES and WYOMING STILES, co-partners, as Mortgagee,

W I T N E S S E T H:

6 THAT said Mortgagors in consideration of the sum of \$125,120.91 to them in
7 hand paid by said Mortgagee, receipt of which is hereby acknowledged, do hereby
8 grant, bargain, sell and convey unto Mortgagee, its successors and assigns, all
9 of the following described premises situated in Klamath County, Oregon, to-wit:

10 PARCEL NO. 1: All that portion of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 33, Township 38
11 South, Range 9 East of the Willamette Meridian, Klamath County,
Oregon, described as follows:

12 Beginning at the intersection of the Southerly line of Sixth Street and the East-
13 erly line of Adams Street in the City of Klamath Falls, Oregon; thence South-
14 easterly along the Southerly line of Sixth Street 151.3 feet to the Westerly line
15 of the Material Yard Spur right-of-way; thence South along the West line of said
16 right-of-way to the beginning of the next curve; thence South on the same line
produced a total distance of 980.8 feet, more or less, to the South line of Sec-
tion 33; thence West along the Section line 125.0 feet; thence North 1066.0 feet,
more or less, to the point of beginning.

16 LESS the following described parcel: Beginning at a point on the Township line
17 between Section 33, Township 38 South, and Section 4, Township 39 South, all in
18 Range 9 East of the Willamette Meridian, which is South 89°26' West 188.23 feet
19 from the intersection of said Township line with the West line of Owens Street;
thence South 89°26' West 125.0 feet along said Township line; thence North 0°45'
West 180.0 feet; thence North 89°26' East 125.0 feet; thence South 0°45' East
180.0 feet to the point of beginning;

20 EXCEPTING THEREFROM that portion lying within South Sixth Street.

21 PARCEL NO. 2: Beginning at a point which bears West from the South quarter cor-
22 ner of Section 33, Township 38 South, Range 9 East of the Willa-
23 mette Meridian, Klamath County, Oregon 313.83 feet; thence North 0°45' West
1066.0 feet, more or less, to a point on the South line of Sixth Street, which
24 point is 151.3 feet North 55°49' West from the intersection of the West line of
the Material Yard Spur right-of-way and the South line of Sixth Street; thence
25 North 55°49' West 73.19 feet along the South line of Sixth Street to a point;
thence South 0°45' East to a point on the South line of Section 33, Township 38
26 South, Range 9 East of the Willamette Meridian; thence East along the South line
of Section 33 to the point of beginning;

27 EXCEPTING THEREFROM that portion lying within South Sixth Street.

28 PARCEL NO. 3: Beginning at a point on the South line of Section 33, Township 38
29 South, Range 9 East of the Willamette Meridian, Klamath County,
Oregon, said point of beginning being South 89°26' West 313.63 feet from the
30 quarter corner of said Section 33; thence North 0°45' West 1050.0 feet, more or
less, to the Southwesterly right-of-way line of South Sixth Street; thence North
31 55°43' West along the Southwesterly right-of-way line of Sixth Street a distance
of 73.19 feet, more or less, to the Northeasterly corner of that certain tract
32 of land deeded to Jacob and Martha Seutter as shown in Deed Volume 160 at page
557, on record in the office of the Clerk of Klamath County, Oregon; thence

1 South 0°45' East along the East line of said Seutter property to the Southeast
 2 corner of said Seutter property a distance of 229.23 feet; thence South 89°15'
 3 West along the South line of said Seutter property to the Southwest corner of
 4 said Seutter property a distance of 350.0 feet; thence North 0°45' West along
 5 the West line of said Seutter property to the Northwest corner of said Seutter
 6 property a distance of 212.5 feet; thence South 89°15' West 198 feet, more or
 7 less, to the East right-of-way of the Central Pacific Railway Company; thence
 8 South 0°45' East along the East line of said Central Pacific Railway Company
 9 property a distance of 923 feet, more or less, to the Northeasterly right-of-way
 10 line of the O. C. & E. Railway Company; thence South 51°58' East along the
 11 Northeasterly right-of-way line of said O. C. & E. Railway Company a distance of
 12 241.2 feet, more or less, to the South line of Section 33; thence along the
 13 South line of Section 33 North 89°26' East a distance of 417.24 feet, more or
 14 less, to the point of beginning;

15 EXCEPTING THEREFROM any portion of the above described property lying within
 16 the right-of-way of South Sixth Street.

17 Together with their appurtenances and the rents, issues and profits there-
 18 from, and any and all fixtures which are now upon said premises or which may be
 19 placed on said premises at any time while this Mortgage remains unsatisfied.

20 TO HAVE AND TO HOLD the said premises with their said appurtenances unto the
 21 Mortgagee, its successors and assigns forever.

22 THIS MORTGAGE is intended to secure the payment by the Mortgagors to the
 23 Mortgagee of the principal sum of \$125,120.91 and interest.

24 \$28,500.00 of said principal sum is evidenced by a promissory note of even
 25 date in words and figures substantially as follows:

\$28,500.00

Klamath Falls, Oregon

June 1, 1967

For value received, I, Lottie M. Miller; I, W. Don Miller; and W. D. Miller Construction Co., an Oregon Corporation, do each jointly and severally promise to pay to the order of BEE HIVE AUTO LEASE, a co-partnership consisting of Elbert W. Stiles and Wyoming Stiles, co-partners, TWENTY-EIGHT THOUSAND FIVE HUNDRED and 00/100 DOLLARS with interest thereon at the rate of 8% per annum from January 1, 1967, until paid in installments at the dates and in amounts as follows: Not less than \$750.00 on the 1st day of July, 1967, and not less than \$750.00 on the 1st day of each month thereafter, PLUS the full amount of interest due on this note at each said payment date, until the whole sum of principal and interest has been paid in full. If any of said installments of principal or if any of said interest is not so paid, the whole sum of both principal and interest shall become immediately due and collectible at the option of the holder of this note. In case suit or action is instituted to collect this note or any portion thereof said makers jointly and severally promise to pay, in addition to the costs and disbursements provided by law, such additional sums as the Courts, including Appellate Courts in the event of an appeal or other proceeding in such Court, may adjudge reasonable as attorneys fees in such suit or action.

Lottie M. Miller
 Lottie M. Miller

W. Don Miller
 W. Don Miller

W. D. MILLER CONSTRUCTION CO.

(CORPORATE SEAL)

By W. Don Miller, its President
 By Lottie M. Miller, its Secretary

STATE OF OREGON)
 County of Klamath) SS

June 19, 1967

20

Personally appeared W. Don Miller and Lottie M. Miller, who, being sworn, each for himself and herself and not one for the other, stated that the former is the President and that the latter is the Secretary of W. D. Miller Construction Co. and that the seal affixed hereto is its seal and that this note was voluntarily signed and sealed in behalf of the corporation by authority of its board of directors.

Before me:

Les Murphy
 Notary Public for Oregon

(SEAL)

My Commission Expires: 4-22-67

5027

- 1 \$6,722.16 of said principal sum is evidenced by a promissory note dated
2 December 16, 1966, in words and figures as follows:

Miller note

\$6,722.16 Klamath Falls, Oregon, Dec. 16, 1966.
On Demand after date, each of the undersigned promises to pay to the order of
Bee Hive Auto Lease, 830 Klamath Ave.
at Klamath Falls, Oregon. Six Thousand Seven Hundred Twenty Two and 16/100 DOLLARS,
with interest thereon at the rate of 8 percent per annum from 1-1-67 until paid. Interest to
be paid on demand and if not so paid, the whole sum of both principal and interest to become im-
mediately 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, each of the undersigned promises and agrees to pay holder's reasonable collection costs, in-
cluding attorney's fees, even though no suit or action is filed hereon; however, if such suit or action is filed, the
amount of such attorney's fees shall be fixed by the court.

XX W. D. Miller Const. Co.

By W. Don Miller, Pres.

No.

FORM No. 214-NOTE, 3 SA

STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

- 14 \$89,310.75 of said principal sum is the aggregate amount of the rents now
15 remaining unpaid on personal property leases between said W. D. Miller Construc-
16 tion Co., as Lessor, and Mortgagee, as Lessee, and between said W. Don Miller,
17 doing business as The Excavators, as follows:

17	doing business as The Excavators, Inc.					
18	<u>Lease</u>	<u>Date of</u>	<u>Rentals Remaining</u>	<u>Monthly</u>	<u>Day of Month</u>	<u>Date of Last</u>
	<u>No.</u>	<u>Lease</u>	<u>Unpaid</u>	<u>Payment</u>	<u>Due</u>	<u>Payment</u>
19						
	1122	1/16/65	\$ 13,589.64	\$ 375.82	16th	3/16/67
			14,666.56	377.86	30th	3/30/67
20	1235	5/29/65	3,150.00	112.50	3rd	4/3/67
	1249	8/3/65	7,954.00	300.00	15th	3/15/67
21	1280	11/15/65	10,989.50	300.00	1st	4/1/67
	1529	4/1/66	7,560.85	215.87	30th	3/30/67
22	1563	6/30/66	16,054.42	375.00	2nd	4/2/67
	1575	8/2/66	1,845.78	70.00	14th	3/14/67
23	127	8/14/65	13,500.00	450.00	14th	3/14/67
	1591	10/14/66				
24	<u>Total</u>		<u>\$ 89,310.75</u>			

- 25 \$588.00 of said principal sum is advance to cover cost of title insurance
26 and legal and recording fees incurred in the preparation of this Mortgage.
27 This Mortgage is further intended to secure the payment and performance of
28 all future advances, loans, rentals, obligations and indebtedness which may
29 hereafter become owing or performable by the Mortgagors, or any of them, to the
30 Mortgagee and in particular to secure the full payment and performance by the
31 Mortgagors, W. D. Miller Construction Co. and/or W. Don Miller and/or The
32

DANONG, DANONG
& BORDON
ATTORNEYS AT LAW
KLAMATH FALLS, ORE.

Mortgage Agreement - Page 3.

21

1 Excavators, of all leases made by them, or any of them, with Mortgagee, its
 2 successors and assigns, for a period of five years from and after June 1, 1967.
 3 Notwithstanding the particularity of the foregoing, it is expressly understood
 4 and agreed that the word "indebtedness" is used herein in its most comprehen-
 5 sive sense and includes any and all advances, loans, rentals, debts, charges
 6 and late charges, obligations and liabilities of said Mortgagors or any of
 7 them whether heretofore, now, or hereafter made, incurred or created, and all
 8 interest accrued thereon, and that this Mortgage shall secure all of the same,
 9 provided however, that the total principal amount secured by this Mortgage
 10 shall not exceed \$225,000.00 at any one time.

11 All indebtedness secured by this Mortgage Agreement, except rental payments
 12 not yet due, shall draw interest at the rate of 8% per annum.

13 Rental payments shall not draw interest unless not paid when due but each
 14 such past due rental payment shall draw interest at the rate of 10% per annum
 15 from its due date until it is paid. Accrued interest shall be paid with prin-
 16 cipal and in addition thereto or on demand. Mortgagee may make a reasonable
 17 "Late Payment Charge" for each payment not made promptly when due to compensate
 18 it for the additional bookkeeping and other expenses involved in servicing
 19 late payments.

20 The said Mortgagors and their respective heirs, legal representatives,
 21 successors and assigns, jointly and severally covenant and agree to and with
 22 the Mortgagee, its successors and assigns, as follows:

23 That said Mortgagor, Lottie M. Miller, is lawfully seized in fee simple of
 24 all of the above described premises and has a marketable, unencumbered title
 25 thereto and will warrant and defend the same against all persons and claims
 26 whatsoever, except that it is expressly understood and agreed that said prem-
 27 ises are subject to a first mortgage between said Lottie M. Miller, as Mort-
 28 gagor, and said Bee Hive Auto Lease, as Mortgagee, dated June 24, 1964, and
 29 recorded July 8, 1964, in Volume 224 at page 331 of Klamath County, Oregon,
 30 Mortgage Records, and that this Mortgage is intended to amend and supplement
 31 said original first mortgage.

32 That each of said Mortgagors does hereby irrevocably authorize and empower

1 each of the other Mortgagors to enter into such other, further or additional
2 personal property lease agreements with the Mortgagee, its successors or
3 assigns, and to borrow or incur such other advances, loans, rentals, obliga-
4 tions and indebtedness as said Mortgagor may see fit without any notice what-
5 soever to her, him or it, for a period of five years from and after June 1,
6 1967, subject only to the limitation that the aggregate principal amount se-
7 cured by this Mortgage shall not exceed \$225,000.00 at any one time, and all
8 such indebtedness shall be secured by this Mortgage.

9 That the Mortgagors will promptly pay, and re-pay, to the Mortgagee all
10 indebtedness and interest now or hereafter secured by this Mortgage, including
11 all such future advances, loans, rentals and indebtedness, in accordance
12 with the terms of the notes, leases or other written instruments evidencing
13 the same or if there is no such written instrument, then on demand for same.

14 That the Mortgagors will fully and promptly keep, observe and perform all
15 of the terms and conditions of all of said Lease Agreements with Mortgagee,
16 including such other, further or additional Lease Agreements hereafter entered
17 into by any of said Mortgagors with Mortgagee.

18 That Mortgagors will pay all taxes, assessments and other charges which may
19 be levied against any of said premises or this Mortgage or any indebtedness
20 secured hereby or the note, lease or other written instrument evidencing the
21 same promptly when said tax, assessment or charge first becomes payable and
22 before interest accrues thereon.

23 That Mortgagors will promptly pay and satisfy all liens or incumbrances
24 that are or may hereafter become liens on the premises, or any part thereof,
25 superior to the lien of this Mortgage.

26 That Mortgagors will keep all buildings, structures, fixtures and other
27 improvements which are now on, or which may hereafter be erected, installed or
28 placed upon any of said premises, continuously insured against loss or damage
29 by fire and such other hazards as the Mortgagee may from time to time require
30 for their full insurable value in a company or companies approved by the
31 Mortgagee and shall deliver all such policies to the Mortgagee promptly as
32 the same are issued.

1 That Mortgagors will maintain the premises and all buildings, structures,
2 fixtures and other improvements thereon in good condition and repair and will
3 not suffer or commit any strip or waste of said premises.

4 That Mortgagors will, upon request of Mortgagee, join with the Mortgagee
5 in executing any financing statements necessary or convenient for the purpose
6 of securing any interest of the Mortgagee in any fixtures or other improvements
7 placed upon said premises during the term of this Mortgage.

8 That if the Mortgagors shall fail to pay any of said taxes, assessments
9 or other charges or shall fail to pay and satisfy any of said liens or
10 incumbrances that are or may become liens superior to the lien of this Mort-
11 gage, or shall fail to place any such insurance or to pay any premiums thereon
12 promptly when the same become due, the Mortgagee may, at its option, pay or
13 place the same and any such payments shall draw interest at the rate of 10%
14 per annum until paid, and shall be secured by this Mortgage, and Mortgagors
15 shall pay the same, on demand, all without waiver however of any right of the
16 Mortgagee for breach of this Mortgage, including the right to declare this
17 Mortgage and all principal, interest, advances, loans, rentals and obli-
18 gations and indebtedness secured hereby immediately due and payable and to
19 foreclose the same.

20 That each of said Mortgagors does hereby waive presentment for payment,
21 demand, notice of non payment, notice of protest and protest and hereby con-
22 sents to any and all extensions of time, renewals, waivers or modification
23 of any payment or of any provisions of any note, lease or other written
24 instrument secured hereby and of release or substitution of any collateral
25 or security.

26 That in the event any suit or action is filed to enforce any of the terms
27 or conditions of this Mortgage or to collect any indebtedness or interest
28 secured hereby or to foreclose said Mortgage, the Mortgagors agree to pay
29 all reasonable costs incurred by the Mortgagee for title reports and title
30 searches, all statutory costs and disbursements and such further sums as the
31 Courts, including Appellate Courts in the event of an appeal or other pro-
32 ceedings in such Court, may adjudge reasonable as the Mortgagee's attorneys

1 fees.

2 That in the event any suit, action or other proceeding is taken to fore-
3 close this Mortgage, or to enforce any of its terms or conditions, or to
4 collect any indebtedness or interest secured by it, the Court may, upon motion
5 of the Mortgagee, appoint a receiver to take possession of said premises and
6 protect the same and/or to collect the rents and profits arising out of said
7 premises during the pendency of such suit, action or other proceedings and
8 shall apply the same, after first deducting all of said receiver's proper
9 charges and expenses, to the payment of the interest and indebtedness secured
10 by this Mortgage.

11 That if the said Mortgagors shall keep, observe and perform all of the
12 agreements herein contained and shall pay all indebtedness and interest
13 secured by this Mortgage, then this conveyance shall be void, but otherwise
14 it shall remain in full force and effect as a Mortgage to secure such per-
15 formance, indebtedness and interest, it being agreed that time and such full
16 compliance, observance and performance is of the essence hereof and if the
17 Mortgagors, or any of them, shall fail to keep, observe or perform any of the
18 agreements herein contained or to pay any indebtedness or interest secured by
19 this mortgage, or any installment or part thereof promptly when the same shall
20 first become payable, the Mortgagee may, at its option, declare all indebted-
21 ness and interest secured by this Mortgage immediately due and payable and
22 this Mortgage may be foreclosed at any time thereafter and Mortgagors promise
23 to pay, and Mortgagee shall have judgment against each of the Mortgagors for
24 any deficiency.

25
26 That each and all of the agreements herein contained shall jointly and
27 severally apply to and bind the heirs, legal representatives, successors,
28 grantees and assigns of each of the Mortgagors for the benefit of the Mortgagee
29 and its successors and assigns.

30 That said Lottie M. Miller and W. Don Miller join in this Mortgage Agreement
31 in their personal capacities and also authorize and ratify the same as the
32 Shareholders and Directors of W. D. Miller Construction Co.

1 IN WITNESS WHEREOF, the Mortgagors have caused this Mortgage to be executed
2 the day and year first herein written.

Lottie M. Miller
Lottie M. Miller

W. Don Miller
W. Don Miller

W. D. MILLER CONSTRUCTION CO.

By *W. Don Miller*
its President

By *Lottie M. Miller*
its Secretary

(CORPORATE SEAL)

11 STATE OF OREGON)
12 County of Klamath) SS

June 29, 1967

12 Personally appeared the above named Lottie M. Miller and acknowledged the
13 foregoing instrument to be her voluntary act and deed.

13 Before me:

Louis Murphy
Notary Public for Oregon

14 (SEAL)
15 My Commission Expires: 4-22-68

16 STATE OF OREGON)
17 County of Klamath) SS

June 29, 1967

17 Personally appeared the above named W. Don Miller and acknowledged the fore-
18 going instrument to be his voluntary act and deed.

18 Before me:

Louis Murphy
Notary Public for Oregon

19 (SEAL)
20 My Commission Expires: 4-22-68

21 STATE OF OREGON)
22 County of Klamath) SS

June 29, 1967

22 Personally appeared W. Don Miller and Lottie M. Miller who, being sworn, each
23 for himself and herself and not one for the other, stated that the former is the
24 President and that the latter is the Secretary of W. D. Miller Construction Co.
25 and that the seal affixed hereto is its seal and that this instrument was volun-
26 tarily signed and sealed in behalf of the corporation by authority of its board
27 of directors.

25 Before me:

Louis Murphy
Notary Public for Oregon

26 (SEAL)
27 My Commission Expires: 4-22-68

28
29
30 STATE OF OREGON; COUNTY OF KLAMATH; ss.

31 Filed for record at request of Steve Stiles - Bea Hiva Auto Loans Co.

32 this 5th day of July 1967 at 2:52 o'clock P.M., and

only recorded in Vol. M.67... of Mortgage on Page 15025.

DOROTHY ROGERS, County Clerk

By *Caraal [Signature]*

Fee \$ 12.00

26

GANDON, GANDON
& GORDON
ATTORNEYS AT LAW
KLAMATH FALLS, ORE.