

77913

Vol. 73 Page 7721

28-5045

THIS TRUST DEED, made this 5th day of JUNE 1973, between
 JOE C. PHILLIPS and IRIS R. PHILLIPS, husband and wife, as Grantor,
 TRANSAMERICA TITLE INSURANCE COMPANY, a California corporation, as Trustee,
 and WESTERN BANK, an Oregon banking corporation, as Beneficiary.

WITNESSETH:

Grantor irrevocably grants, bargains, sells and conveys to Trustee in trust, with power of sale, the property in
 Klamath County, Oregon described as:

Lot 22 in Block 5, Tract 1037 known as FIFTH ADDITION
 TO SUNSET VILLAGE, Klamath County, Oregon.

which said described real property does not exceed three acres, together with all and singular the tenements, hereditaments and appurtenances and all other rights thereunto belonging or in anywise 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 each agreement of Grantor herein contained and payment of the sum of \$28,350.00 with interest thereon according to the terms of a promissory note of even date herewith, payable to Beneficiary or order and made by Grantor, Joe C. Phillips and Iris R. Phillips, husband and wife, the final payment of principal and interest thereof, if not sooner paid, to be due and payable July 1, 1978.

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.
4. To keep the buildings now or hereafter on said property insured against loss by fire and against loss by such other hazards as the Beneficiary may from time to time require in an amount not less than the lesser of the indebtedness hereby secured or the insurable value of said buildings; that such policies shall be issued by companies satisfactory to the Beneficiary and shall contain such provisions and shall bear such endorsements as Beneficiary may require and be payable to Beneficiary; that such policies shall be delivered to and retained by the Beneficiary and at least five days prior to the expiration thereof renewal or substitute policies shall be delivered to Beneficiary; that the proceeds of such insurance shall be applied as Beneficiary shall elect to the payment of any indebtedness thereby secured or to the restoration of any of the property or by release to Grantor and that such application or release shall not cure or waive default or notice of default hereunder or invalidate any act done pursuant to such notice; that the Beneficiary is authorized in the event of any loss to compromise and settle with any insurance company, to endorse, negotiate and present for and in the name of the Grantor any check or draft issued in settlement of any such loss and receive and to apply the proceeds thereof as herein provided.
5. To keep said premises free from mechanics' 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 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 of eight per cent per annum together with the obligations described in paragraphs 7 and 8 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 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 non-payment 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 to Beneficiary, at the time of payment of each installment of the indebtedness hereby secured, such amount as Beneficiary shall estimate to be sufficient to produce, at least one month prior to the time when payment thereof shall become due, the amount of (a) taxes, assessments and other governmental rates and charges against said property, (b) premiums upon insurance against loss or damage to said property and (c) premiums on insurance covering repayment of all or any part of the indebtedness hereby secured, if Beneficiary carries such insurance. If the sums so paid shall be less than sufficient for said purposes, Grantor will also pay, upon demand, such additional sum as Beneficiary shall deem necessary therefor. If Grantor desires a "package" plan of insurance which includes coverage in addition to that required under this Trust Deed, Beneficiary may, at its option, establish and administer a reserve for that purpose. If the package plan reserve is not sufficient to pay the renewal premium on a package plan policy, then Beneficiary may use such reserve to pay premiums on a policy covering only risks required to be insured against under this Trust Deed and allow the package insurance plan to lapse. Beneficiary shall, upon the written direction of the Grantor, and may, without such direction, apply sums paid by Grantor and held by Beneficiary to the purposes aforesaid; but the receipt of such sums shall not, in the absence of

such direction, impose any duty upon Beneficiary to disburse the same or relieve Grantor from his covenants to pay said obligations and keep the property insured. Beneficiary may, from time to time, establish reasonable service charges for the collection and disbursement of premiums on package type insurance policies. Beneficiary shall not, whether or not service charges are imposed, be subject to any liability for failure to transmit any premiums to any insurer or by reason of any loss growing out of any defect in any insurance policy.

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, and trustee's and attorney's fees actually incurred.

8. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary, or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum to be fixed by the court, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this deed.

It is Mutually Agreed That:

9. 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 Grantor in such proceedings, shall be paid to Beneficiary and applied by it first upon any reasonable costs and expenses and attorney's fees necessarily paid or incurred by Beneficiary in such proceedings, and the balance 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.

10. 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 reconveyance, 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 of the property; (d) reconvey, without warranty, all or any part or charge thereof. The Grantee 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 \$5.

11. Upon any default by Grantor hereunder, Beneficiary may at any time without notice, either in person, by agent or by 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 for 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 attorney's fees upon any indebtedness secured hereby, and in such order as Beneficiary may determine.

12. 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 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.

13. Upon default by Grantor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written notice of default and election to sell the trust property; which notice Trustee shall cause to be duly filed for record. If Beneficiary desires said property to be sold, it shall deposit with Trustee this trust deed and all promissory notes and documents evidencing expenditures secured hereby, whereupon the Trustee shall fix the time and place of sale and give notice thereof as then required by law.

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 of the United States, or a title insurance company authorized to insure title to real property under the provisions of ORS Chapter 729, its subsidiaries, affiliates, agents or branches.

14. If after default and prior to the time and date set by the Trustee for the Trustee's sale, the Grantor or other person so privileged by ORS 86.760 pays the entire amount then due under the terms of the trust deed and the obligation secured thereby, other than such portion of the principal as would not then be due had no default occurred, and the Grantor or other person making such payment shall also pay to the Beneficiary all of Beneficiary's costs and expenses incurred up to said time in enforcing the terms of the obligation, including Trustee's and Attorney's fees not exceeding \$50 if actually incurred, such default shall thereby be cured.

15. After the lapse of such time as may then be required by law following the recordation of said notice of default and the giving of said notice of sale, Trustee shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at the time of sale. Trustee shall deliver to the purchaser its deed in form as required by law or conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, excluding the Trustee, but including the Grantor and Beneficiary, may purchase at the sale.

16. 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 a reasonable charge by the Trustee, (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 interest may appear in order of their priority and (4) the surplus, if any, to the Grantor or to his successor in interest entitled to such surplus.

17. 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.

18. 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 Grantor, Beneficiary or Trustee shall be a party unless such action or proceeding is brought by Trustee.

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

20. Grantor shall not, without the prior written consent of Beneficiary, transfer Grantor's interest in the property or any part thereof, whether or not the transferee assumes or agrees to pay the indebtedness hereby secured. Upon any application for Beneficiary's consent to such a transfer, Beneficiary may require from the transferee such information as would normally be required if the transferee were a new loan applicant. Beneficiary shall not unreasonably withhold its consent. As a condition of its consent to any transfer, Beneficiary may, in its discretion, impose a service charge not exceeding one percent of the original amount of the indebtedness hereby secured and may increase the interest rate of the indebtedness hereby secured by not more than one percent per annum.

21. This Deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the holder and owner, including pledgee, of the note secured hereby, whether or not named as a beneficiary herein. In construing this deed and whenever the context so requires, the masculine gender includes feminine and/or neuter, and the singular number includes the plural.

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

Joe C. Phillips (SEAL)
Iris R. Phillips (SEAL)

CORPORATE ACKNOWLEDGMENT

STATE OF OREGON, County of _____ ss.
_____, 19____

Personally appeared _____

and _____
who being duly sworn, did say that he, _____
is the _____
and he, _____, is the _____
of _____

a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged said instrument to be its voluntary act and deed.

Before me: _____ (Seal)
Notary Public for Oregon
My commission expires: _____

STATE OF OREGON, } ss.
County of Baker

June 7, 1973

Personally appeared the above named _____

Joe C. Phillips and Iris R. Phillips,
husband & wife

and acknowledged the foregoing instrument to be

their voluntary act and deed.

Before me:

(SEAL) _____
Notary Public for Oregon
My commission expires _____

TRUST DEED

Grantor

Beneficiary

ss.

STATE OF OREGON,

County of Klamath

I certify that the within instrument was received for record on the _____ day of _____, 1973, at _____ o'clock _____ P.M., and recorded in book _____ on page _____ in the _____ of said County.

Witness my hand and seal of _____ County affixed.

Wm. D. Milne
County Clerk-Recorder

By _____ Deputy

Fee 4.00

Return to:

Western Bank

P.O. Box 1149

Klamath Falls, Ore.

REQUEST 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 reconveyances and documents to _____

DATED: _____, 19____ By _____ Beneficiary

Do not lose or destroy this Trust Deed OR THE NOTE which it secures. Both must be delivered to the trustor for cancellation before reconveyance will be made.

7222