

## MORTGAGE

RECEIVED JAN 30 1975  
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THIS INDENTURE, WITNESSETH That HARRY R. MAGGONER, NORMA E. MAGGONER and WALTER B. MAGGONER, herein called "mortgagors", for and in consideration of the sum of \$75,000.00 to them in hand paid, the receipt whereof is hereby acknowledged, have bargained, sold and conveyed and by these presents do bargain, sell and convey unto

JOHN GREEN, herein called "mortgagee", all of mortgagors' right, title and interest in and to the property described on Exhibit A attached hereto and by this reference made a part hereof, together with all tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the same unto mortgagee, his heirs and assigns forever.

This conveyance is intended as a mortgage to secure the payment of the sum of \$75,000.00 as rental to become due in accordance with the tenor of a certain lease agreement dated January 27, 1975, wherein mortgagors are the lessees and mortgagee is the lessor, covering a 1/20th undivided interest in and to the above-described real property.

Now, if the sum of money due under said instrument for rental shall be paid according to the agreement therein expressed, this conveyance shall be void; but in case default shall be made in the payment of said rentals as provided in said instrument, then mortgagee and his legal representatives may sell the premises above described with all and every of the appurtenances or any part thereof, in the manner prescribed by law, and out of the money arising from such sale, retain the amount due under said lease agreement for rentals, together with the costs and charges of making such sale, including but not limited to the cost of a mortgage foreclosure title report and a reasonable sum as attorney fees in any suit or action brought to foreclose the within mortgage or any appeal from such judgment or decree, and the overplus, if any there be, pay over to mortgagors, their heirs and assigns; and said mortgagors, for themselves, their heirs, personal

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representatives and assigns, do covenant and agree to pay said mortgagee, his heirs, personal representatives and assigns, the sum of money as above mentioned.

In any suit to foreclose this mortgage, mortgagee shall be entitled to the appointment of a receiver of rents and profits of said premises with authority to such receiver to collect and receive the same and to take possession, management and control of said premises during the pendency of such foreclosure proceedings or until payment of the debt hereby secured, and any net rents, issues and profits so collected shall be applied upon the debt hereby secured.

WITNESS our hands this 29 day of January, 1975.

Harry R. Waggoner  
Norma E. Waggoner  
Walter B. Waggoner

STATE OF OREGON        )  
                               ) ss. January 29, 1975  
 County of Klamath    )

Personally appeared the above-named HARRY R. WAGGONER, NORMA E. WAGGONER and WALTER B. WAGGONER, known to me to be the identical persons described as mortgagors in the within Mortgage, and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:

Harmon J. Smith  
 NOTARY PUBLIC FOR OREGON  
 My commission expires 12-21-78

PARCEL 1:

A portion of the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3, Twp. 39 S., R. 9 E.W.M., more particularly described as follows:

Beginning at an iron pin on the South right-of-way line of South Sixth Street as presently located and constructed, which bears S. 0°22'15" E. a distance of 48.5 feet from the Northwest corner of said NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; thence Easterly, along said right-of-way line a distance of 142.5 feet to a point; thence South at right angles to said right-of-way line a distance of 460.0 feet to a point;

thence West, parallel to said right-of-way line, a distance of 142.5 feet, more or less, to the West line of said NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; thence North along said West line a distance of 460.0 feet to the point of beginning.

PARCEL 2:

A tract of land situated in the SE $\frac{1}{4}$  of Sec. 3, Twp. 39 S., R. 9 E.W.M., more particularly described as follows:

Beginning at the East one-fourth corner of said Sec. 3; thence South 89°52' West 1,275.74 feet; thence South 00°21'47" East 54.10 feet to a one-half inch pipe on the Southerly right-of-way line of the Dalles-California Highway marking the Northeast corner of that parcel of land described in Deed Vol. 251 page 162, as recorded in the Klamath County Deed Records; thence continuing South 00°21'47" East along the East line of said parcel described in said Deed Vol. 251 page 162, 233.00 feet to the true point of beginning of this description; thence continuing South 00°21'47" East along said line 395.64 feet to the Northerly right-of-way line of the Oregon-California and Eastern Railway Company; thence North 67°41' West along said right-of-way line 156.57 feet (162 feet by record); thence North 00°55'30" West along the West line of said parcel described in said Deed Vol. 251 page 162, 334.24 feet; thence North 89°14' East 147.71 feet to the true point of beginning of this description, containing 1.25 acres, more or less, with bearings being based on the East line of the SE $\frac{1}{4}$  of Said Sec. 3 as being South 01°14' East.

PARCEL 3:

A portion of the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Sec. 3, Twp. 39 S., R. 9 E.W.M., more particularly described as follows:

Beginning at a one-half inch iron pin on the South right-of-way line of South Sixth Street, as the same is presently located and constructed, said point being on the West line of tract of land deeded to Miller by deed Vol. 251 page 162 and the East line of a tract of land deeded to Wheeler by deed Vol. 142 page 349, Klamath County Deed Records; thence S. 0°55'30" E. along the line between the two above described tracts a distance of 291.6 feet to a 5/8 inch iron pin marking the Southeast corner of a tract of land deeded to United States National Bank of Oregon by deed recorded in Vol. M67, page 4075, Microfilm Records of Klamath County, Oregon, and the True Point of Beginning of this description; thence continuing S. 0°35'30" E. a distance of 275.64 feet, more or less, to the Northeasterly right-of-way line of the O.C. & E. Railroad; thence N. 67°41' W. along said right-of-way line a distance of 146.11 feet to the Southwest corner of said Wheeler tract; thence N. 0°55'30" W. along the West line of said Wheeler tract, a distance of 217.58 feet to the Southwest corner of said United States National Bank tract; thence N. 89°14' E. along the South line of said tract, a distance of 136.09 feet to the point of beginning.

EXCEPTING THEREFROM:

The following described real property situate in Klamath County, Oregon:

A portion of the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3, Township 39 South, Range 9 East of the Willamette Meridian more particularly described as follows:

Beginning at a one-half inch iron pin on the South right of way line of South Sixth Street, as the same is presently located and constructed, said point being on the West line of tract of land deeded to Miller by deed Volume 251, page 162 and the East line of tract of land deeded to Wheeler by deed Volume 142, page 349, Klamath County deed records; thence South 0°55'30" East along the line between the two above described tracts a distance of 291.6 feet to a 5/8 inch iron pin marking the Southeast corner of tract of land deeded to United States National Bank of Oregon by deed recorded in Volume M67, page 4075, Microfilm records of Klamath County, Oregon and the true point of beginning of this description; thence continuing South 0°55'30" East a distance of 50.0 feet to a point; thence South 89°14' West a distance of 136.09 feet to a point; thence North 0°55'30" West a distance of 50.0 feet to the Southwest corner of said parcel described in Volume M67, page 4075; thence North 89°14' East, along the South line of said parcel, a distance of 136.09 feet, more or less, to the point of beginning.

## Parcel 4:

A tract of land situate in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3, Township 39 South, Range 9, E.W.M. described as follows:

Beginning at a  $\frac{1}{2}$ " iron pin which bears S.  $89^{\circ}52'$  W. a distance of 745.73 feet and S.  $0^{\circ}20'55''$  E. a distance of 20.16 feet from the brass cap monument marking the East  $\frac{1}{4}$  corner of Section 3, Township 39 South, Range 9, E.W.M., said beginning point also being on the South line of tract described as Parcel #1 in deed from Klamath County School District to Klamath County, recorded in Vol. 295, page 133, deed records of Klamath County, Oregon; thence continuing from said beginning point S.  $0^{\circ}20'55''$  E. along a line parallel to and 4.0 feet distant Easterly, when measured at right angles to, from the existing Easterly wall of the Payless Drug Store building as the same is presently located and constructed, a distance of 402.04 feet to a  $\frac{1}{2}$ " iron pipe; thence S.  $53^{\circ}42'15''$  W. a distance of 304.44 feet, more or less, to a  $\frac{1}{2}$ " iron pipe on the Northeasterly boundary of the O. C. & E. Railroad right-of-way as the same is presently located and constructed, and from which point the aforesaid monument marking the East  $\frac{1}{4}$  corner of said Section 3 bears N.  $50^{\circ}50'20''$  E. a distance of 1273.34 feet; thence Northwesterly along said Northeasterly boundary of the O. C. & E. Railroad right-of-way a distance of 299.5 feet, more or less, to the West line of said NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; thence North along said West line a distance of 186.5 feet, more or less, to a point on said West line which bears S.  $0^{\circ}22'15''$  E. a distance of 460.0 feet from the Southerly boundary line of the relocated right-of-way of the Klamath Falls-Lakeview Highway; thence Easterly, parallel with said Highway right-of-way line, a distance of 142.5 feet to a point; thence North, parallel with the West line of said relocated Highway right-of-way; thence Easterly along said relocated right-of-way line a distance of 387.7 feet, more or less, to a point which bears N.  $0^{\circ}20'55''$  W. from the point of beginning; thence S.  $0^{\circ}20'55''$  E. a distance of 174.66 feet, more or less, to the point of beginning.

## EXHIBIT "A"

PARCEL 5: A parcel of land lying in the NW 1/4 of Section 3, Township 39 South, Range 9 E.W.M., in Klamath County, Oregon, and more particularly described as follows:

Beginning at a point which is South 55.03 feet and South 89°14' West 630 feet from the quarter section corner common to Section 2 and 3, Township 39 South, Range 9 E.W.M. which point is also South of (when measured at right angles to) the relocated center line of the Klamath Falls-Malin Highway; thence continuing South 89°14' West 79.4 feet to the Northwest corner of this description; thence South 0°18' East 137 feet; thence North 89°14' East 31.9 feet; thence North 0°18' West 137 feet to the point of beginning.

EXCEPTING from the above described parcel a strip of land 8 feet wide running North and South on the West side of said above described parcel of land reserved for sidewalk purposes.

PARCEL 6: A tract of land described as follows: Beginning at an iron pin which lies on the Southerly right of way line of the Dalles-California Highway, 40 feet Southerly at right angles from the center line thereof, and which lies South 89°51' West a distance of 30 feet along the East-West quarter line and South 1°14' East parallel to the East Section line a distance of 42.03 feet, and South 89°14' West along the Southerly right of way line of the Dalles-California Highway 40 feet Southerly at right angles from the center line thereof, a distance of 550 feet from the brass plug in the pavement which marks the one-quarter section corner common to sections 2 and 3, Township 39 South, Range 9 E.W.M., Klamath County, Oregon, and running thence: continuing South 89°14' West along the Southerly right of way line of the Dalles-California Highway 40 feet Southerly at right angles from the Center line thereof, a distance of 50 feet to an iron pin; thence South 1°14' East parallel to the Section line a distance of 150 feet to an iron pin; thence North 89°14' East parallel to the center line of the Dalles-California Highway a distance of 50 feet to an iron pin; thence North 1°14' West parallel to said Section line, a distance of 150 feet, more or less, to the point of beginning, said tract being a portion of the NW 1/4 of Section 3, Township 39 South, Range 9 E.W.M.

EXCEPTING THEREFROM that portion deeded to the State of Oregon by and through its State Highway Commission by deed dated April 16, 1946, recorded April 21, 1946 on page 218 of Volume 138 of Deeds, records of Klamath County, Oregon.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Harry Wagoner

this 30th day of January A.D. 1975 at 3:25 o'clock PM, and duly recorded in Vol. M 75 of Mortgages on Page 1354

Fee 10.00

By WM. D. MILNE County Clerk  
Hazel Drayton Deputy

*Return to H.F. Smith, Atty  
538 Main St  
City 97601*