

A-27963

This Indenture, made this 25th

day of

May

9075

1977, between

30082

WASHBURN ENTERPRISES, INC.

hereinafter called "Mortgagor", and FIRST NATIONAL BANK OF OREGON, a national banking association, hereinafter called "Mortgagee";

WITNESSETH:

For value received by the Mortgagor from the Mortgagee, the Mortgagor has bargained and sold and does hereby grant, bargain, sell and convey unto the Mortgagee, all the following described property situate in Klamath County, Oregon, to wit:
AS PER SCHEDULE ATTACHED HERETO AND BY THIS REFERENCE INCORPORATED HEREIN:
See Attached

together with the tenements, hereditaments and appurtenances now or hereafter thereunto belonging or in anywise appertaining; also all such apparatus, equipment and fixtures now or hereafter situate on said premises, as are ever furnished by landlords in letting unfurnished buildings similar to the one situated on the real property hereinabove described, including, but not exclusively, all fixtures and personal property used or intended for use for plumbing, lighting, heating, cooking, cooling, ventilating or irrigating, linoleum and other floor coverings attached to floors, and shelving, counters, and other store, office and trade fixtures; also the rents, issues and profits arising from or in connection with the said real and personal property or any part thereof.

To Have and To Hold the same unto the Mortgagee, its successors and assigns, forever.

And the Mortgagor does hereby covenant to and with the Mortgagee, that he is lawfully seized in fee simple of the said real property, that he is the absolute owner of the said personal property, that the said real and personal property is free from encumbrances of every kind and nature, and that he will warrant and forever defend the same against the lawful claims and demands of all persons whomsoever.

This conveyance is intended as a mortgage to secure performance of the covenants and agreements herein contained, to be by the Mortgagor kept and performed, and to secure the payment of the sum of \$ 450,000.00 and interest thereon in accordance with the tenor of a certain promissory note executed by WASHBURN ENTERPRISES, INC.

dated May 25, 1977, payable to the order of the Mortgagee in installments not less than \$ 4,700.00, each, including interest, on the 1st day of each month commencing July 1, 1977, until June 1, 1982, when the balance then remaining unpaid shall be paid.

The Mortgagor does hereby covenant and agree to and with the Mortgagee, its successors and assigns:

1. That he will pay, when due, the indebtedness hereby secured, with interest, as prescribed by said note, and all taxes, liens and utility charges upon said premises or for services furnished thereto.

2. That he will not commit or permit strip or waste of the said premises or any part thereof; that he will keep the real and personal property hereinabove described in good order and repair and in tenantable condition; that he will promptly comply with any and all municipal and governmental rules and regulations with reference thereto; that if any of the said property be damaged or destroyed by any cause, he will immediately reconstruct or repair the same so that, when completed, it shall be worth not less than the value thereof at the time of such loss or damage; provided, that if such loss or damage shall be caused by a hazard against which insurance is carried, the obligation of the Mortgagor to repair or reconstruct shall not arise unless the Mortgagee shall consent to the application of insurance proceeds to the expense of such reconstruction or repair.

3. That he will, at his own cost and expense, keep the building or buildings now or hereafter upon said premises, together with all personal property covered by the lien hereof, insured against loss by fire and against loss by such other hazards as the Mortgagee may from time to time require, in one or more insurance companies satisfactory to or designated by the Mortgagee in an aggregate amount not less than the amount of the indebtedness hereby secured (unless the full insurable value of such building or buildings is less than the amount hereby secured, in which event the Mortgagor shall insure to the amount of the full insurable value); that all policies of insurance upon said premises, including policies in excess of the amount hereinabove mentioned and policies against other hazards than those required, shall contain such provisions as the Mortgagee shall require and shall provide, in such form as the Mortgagee may prescribe, that loss shall be payable to the Mortgagee; that all such policies and receipts showing full payment of premiums therefor shall be delivered to and retained by the Mortgagee during the existence of this mortgage; that at least 5 days prior to the

piration of any policy or policies he will deliver to the Mortgagee satisfactory renewals thereof together with premium receipts in full; that if any policy or policies shall impose any condition upon the liability of the insurer or shall contain any "average clause" or other provision by which the insurer may be liable for less than the full amount of the loss sustained, he will, as often as the Mortgagee may require, provide the Mortgagee with all such evidence as it may request concerning the performance of such condition or the existence of any facts or the value of the property insured and, if it shall appear to the Mortgagee that the insurance is prejudiced by the acts or omissions of the Mortgagee or that the coverage is inadequate, the Mortgagee will do such acts and things and obtain such further insurance as the Mortgagee may require; that the Mortgagee may, at its option, require the proceeds of any insurance policies upon the said premises to be applied to the payment of the indebtedness hereby secured or to be used for the repair or reconstruction of the property damaged or destroyed.

4. That he will execute or procure such further assurance of his title to the said property as may be requested by the Mortgagee.

5. That in case the Mortgagee shall fail, neglect or refuse to do or perform any of the acts or things herein required to be done or performed, the Mortgagee may, at its option, but without any obligation to its part to do so, and without waiver of such default, procure any insurance, pay any taxes or liens or utility charges, make any repairs, or do any other of the things required, and any expenses so incurred and any sums so paid shall bear interest at 8% per annum and shall be secured hereby.

6. That he will not, without the prior written consent of Mortgagee, transfer his interest in said premises or any part thereof, whether or not the transferee assumes or agrees to pay the indebtedness hereby secured. Upon any application for Mortgagee's consent to such a transfer, Mortgagee may require from the transferee such information as would normally be required if the transferee were a new loan applicant. Mortgagee shall not unreasonably withhold its consent. As a condition of its consent to any transfer, Mortgagee 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 on the indebtedness hereby secured by not more than one percent per annum.

7. That, if any default be made in the payment of the principal or interest of the indebtedness hereby secured or in the performance of any of the covenants or agreements of this mortgage, the Mortgagee may, at its option, without notice, declare the entire sum secured by this mortgage due and payable and foreclose this mortgage.

8. That, in the event of the institution of any suit or action to foreclose this mortgage, the Mortgagee will pay such sum as the trial court and any appellate court may adjudge reasonable as attorney's fees in connection therewith and such further sums as the Mortgagee shall have paid or incurred for extensions of abstracts or title searches or examination fees in connection therewith, whether or not final judgment or decree therein be entered and all such sums are secured hereby; that in any such suit, the court may, upon application of the plaintiff and without regard to the condition of the property or the adequacy of the security for this indebtedness hereby secured and without notice to the Mortgagee or any one else; appoint a receiver to take possession and care of all said mortgaged property and collect and receive any or all of the rents, issues and profits which had theretofore arisen or accrued or which may arise or accrue during the pendency of such suit; that any amount so received shall be applied toward the payment of the debt secured hereby, after first paying therefrom the charges and expenses of such receivership; but until a breach or default by the Mortgagee in one or more of his covenants or agreements herein contained, he may remain in possession of the mortgaged property and retain all rents actually paid to and received by him prior to such default.

9. The word "Mortgagee", and the language of this instrument shall, where there is more than one mortgagee, be construed as plural and be binding jointly and severally upon all mortgagees and the word "Mortgagee" shall apply to any holder of this mortgage. Masculine pronouns include feminine and neuter. All of the covenants of the Mortgagee shall be binding upon his heirs, executors, administrators, successors and assigns and inure to the benefit of the successors and assigns of the Mortgagee. In the event of any transfer of the property herein described or any part thereof or any interest therein, whether voluntary or involuntary or by operation of law, the Mortgagee may, without notice to the Mortgagee or any one else, once or often, extend the time of payment or grant renewals of indebtedness hereby secured for any term, execute releases or partial releases from the lien of this mortgage or in any other respect modify the terms hereof without thereby affecting the personal primary liability of the Mortgagee for the payment of the indebtedness hereby secured. No condition of this mortgage shall be deemed waived unless the same be expressly waived in writing by the Mortgagee. Whenever any notice, demand, or request is required by the terms hereof or by any law now in existence or hereafter enacted, such notice, demand or request shall be sufficient if personally served on one or more of the persons who shall at the time hold record title to the property herein described or if enclosed in a postpaid envelope addressed to one or more of such persons or to the Mortgagee at the last address actually furnished to the Mortgagee or at the mortgaged premises and deposited in any post office, station or letter box.

IN WITNESS WHEREOF, said Mortgagee has executed this indenture the day and year first above written.

WASHBURN ENTERPRISES, INC.

By Dorman G. Turner
By Harry R. Waggoner

CORPORATE ACKNOWLEDGEMENT

STATE OF OREGON, County of Klamath) ss.
May 25, 19 77

Personally appeared Dorman Turner
and Harry R. Waggoner
who being duly sworn, did say that he, Dorman Turner
is the President
and he, Harry R. Waggoner

Director

WASHBURN ENTERPRISES, INC.

a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation (provided said corporation has such seal) 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: Clara Colwell (Seal)

Notary Public for Oregon
My commission expires: April 8, 1980

STATE OF OREGON

County of _____) ss.

_____, 19 _____

Personally appeared the above named _____

and acknowledged the foregoing instrument to be

_____ voluntary act and deed.
Before me:

(SEAL)

Notary Public for Oregon
My commission expires:

MORTGAGE

TO

FIRST NATIONAL BANK OF OREGON
Portland, Oregon

9077

PARCEL 1:

A tract of land situated in Section 4, Township 39 South, Range 9 E.W.M., and being portions of Tracts 75, 76, 77, 80, 81, 82, 83, 68 and 69 of Enterprise Tracts, described as follows: Beginning at a point which bears S. 0°31'22" E. a distance of 1532.91 feet and S. 67°41' E. a distance of 367.23 feet from the North quarter corner of said Section 4, said point being 800 feet Southwesterly at right angles from the Southwesterly right-of-way line of the O.C. & E. Railroad and is the most Northerly corner of a tract of land deeded to South Suburban Sanitary District by deed recorded in Volume 306, page 84 Deed Records of Klamath County, Oregon; thence S. 67°41' E. along the Northerly line of last described tract to a point 800 feet West at right angles from the West right-of-way line of Washburn Way; thence South, parallel with said right-of-way line, a distance of 773.0 feet to a point; thence N. 67°41' W. to a point which is 330 feet East at right angles, from the East line of Tract 80, Enterprise Tracts; thence continuing N. 67°41' W. to the East line of Tract deeded to Central Pacific Railway Company by Deed recorded in Volume 308, page 312, records of Klamath County, Oregon; thence North, along said East line to the Northeast corner thereof on the Southerly line of Shasta Way; thence East along the Southerly line of Shasta Way to the Southwesterly right-of-way line of the O.C. & E. Railroad; thence Southeasterly along said right-of-way line to a point 330 feet East, at right angles from the East line of Tract 77, Enterprise Tracts; thence South on a line 330 feet Easterly and parallel to the East line of Tracts 77 and 80 to the point of beginning. LESS AND EXCEPTING portion deeded to Maywood Industries of Oregon by Deed Volume M75, page 11116.

PARCEL 2:

A tract of land in the E½ of Section 4 Township 39 South, Range 9 E.W.M., lying in Tracts 48, 49, 50, 68, 69, 70, 75, 76, 81, 82 and 88 of Enterprise Tracts, described as follows: Beginning at the most Northerly corner of the Tract of land deeded to South Suburban Sanitary District by Deed recorded in Deed Book 306, page 84, which point is 330 feet East from the West line of said Tract 81 and 800 feet distant at right angles from the Southwesterly right-of-way line of O.C. & E. Railway, and from said point running North parallel to and 330 feet East from the West line of said Tracts 81 and 76 to the Southwesterly right-of-way line of said railway; thence Southeasterly along said right-of-way line to the East line of said Section 4; thence South on said East section line to the Southeast corner of said Section 4; thence West on the South line of Section 4, 830 feet, more or less, to the East line of the said tract deeded to South Suburban Sanitary District; thence North on said East line 830 feet distant from and parallel to the East line of Section 4 to a point 800 feet distant at right angles from the Southwesterly right-of-way line of O.C. & E. Railway, which is the Northeast corner of said South Suburban Sanitary District tract; thence Northwesterly along the Northeasterly boundary of said South Suburban Sanitary District tract to the point of beginning.

1. EXCEPTING from the above tract the part thereof lying within the North 349.6 feet of Tract 50 of Enterprise Tracts.
2. ALSO EXCEPTING therefrom the part of Tract 50 of Enterprise Tracts deeded to Carlton Wodecki in Deed Book 198, page 57.
3. ALSO EXCEPTING portion deeded to Maywood Industries of Oregon by Deed Volume M75, page 11116.
4. AND EXCEPTING portion within the plat of Washburn Park.
5. AND EXCEPTING portion deeded to Klamath County for street by Deed Volume M75, page 10788.

PARCEL 3:

A parcel of land situated in the SE¼ of Section 9 Township 39 South, Range 9 E.W.M., more particularly described as follows: Beginning at a point on the Southwesterly line of the Burlington Northern Railroad Company's right-of-way, said point being Northwesterly a distance of 900 feet measured along said Southwesterly right-of-way line from the intersection of said right-of-way line with the North line of that property described in Deed Volume 293, page 359, Klamath County Deed Records (said railroad right-of-way line is Southwesterly a distance of 248.5 feet, measured at right angles from the centerline of the Burlington Northern main track as described in Deed Vol. 321, page 327, Klamath County Deed Records); thence Northwesterly along said Southwesterly right-of-way line a distance of 600 feet; thence Southwesterly at right angles to said right-of-way line a distance of 200 feet; thence Southeasterly parallel with said right-of-way line to the North line of the property described in said Deed Vol. 293, page 359; thence Easterly along said North

9078

line to a point that is 100 feet Southwesterly, measured at right angles from said Southwesterly railroad right-of-way line; thence Northwesterly, parallel to and 100 feet Southwesterly from said right-of-way line to a point that is Southwesterly 100 feet, measured at right angles from said right-of-way line and from the point of beginning; thence Northeasterly at right angles to the last described line 100 feet to the point of beginning, containing 4.5 acres, more or less.

PARCEL 4:

A tract of land situated in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9 Township 39 South, Range 9 E.W.M., more particularly described as follows: Beginning at the intersection of the Southwesterly right-of-way line of the Great Northern Railroad Company's right-of-way and the North line of Deed recorded August 2, 1957, Vol. 293, page 359, records of Klamath County, Oregon; thence Northwesterly 900 feet along the said Southwesterly right of way line and 248.5 feet at right angles from the center line of Great Northern's Railroad right-of-way, said Southwesterly right-of-way line is also the Southwesterly line of Deed Recorded May 23, 1960, Vol. 321, page 327, records of Klamath County, Oregon; thence Southwest at right angles 100 feet; thence Southeast and parallel to said Southwesterly right-of-way line to the Northwesterly line of Deed recorded in Vol. 293, page 359, records of Klamath County, Oregon; thence East to the point of beginning.

PARCEL 5:

Lots 1 thru 5 in Block 1 of Washburn Park, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

PARCEL 6:

Lot 1, LESS the East 250 feet of the South 175 feet; Lot 2, LESS PORTION CONVEYED to Maywood Industries of Oregon by Deed Volume M75, page 11116, in Block 2, Washburn Park, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

PARCEL 7:

The North 596 feet of Lot 2, Block 3, Washburn Park, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

PARCEL 8:

Lots 1 and 2, Block 4, Washburn Park, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

PARCEL 9:

Lots 2, 3 and 4, Block 5, Washburn Park, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

PARCEL 10:

The West 210 feet of Lot 1, all of Lots 2, 3, and 4 and Lot 5 LESS the following: Beginning at the Southeast corner of said Lot 5, thence West along the North line of Hilyard Avenue 194.04 feet; thence N. 00°09'45" E. 50.00 feet; thence W. 50.00 feet; thence N. 00°09'45" E. 230.00 feet; thence E. 249.61 feet to the Westerly line of Washburn Way; thence along the Westerly line of Washburn Way, S. 00°04'50" W. 141.19 feet, S. 16°39'57" W. 21.75 feet, S. 00°02'00" E. 117.97 feet to the point of beginning; all in Block 6, Washburn Park, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of KLAMATH COUNTY TITLE CO

this 25th day of MAY 1977 at 12:00 o'clock P.M.

duly recorded in Vol. M77, of MORTGAGES on Page 9075

FEE \$ 12.00

Wm D. MILNE, County Clerk

By Hazel Mazie