

After Recording return to:
Willamette Savings
Corp. Banking Dept.
P.O. Box 5555
Portland, Or 97228

31445

Vol. 183 Page 21078

Loan Number CPBK 00280

mtc 13222
MORTGAGE AND ASSIGNMENT OF RENTS

THIS MORTGAGE AND ASSIGNMENT OF RENTS made and executed this 9th day of December, 1983 by and between: David Seeley hereinafter called Mortgagor, and David C. Seeley M.D., P.C. hereinafter called Borrower, and Willamette Savings and Loan Association (a division of American Savings and Loan Association, a Utah corporation), hereinafter called Mortgagee:

WHEREAS: Borrower has executed as maker certain note(s) more fully described below in favor of Mortgagee as payee; and

WHEREAS: Mortgagor hereby desires and agrees to execute this Mortgage to secure performance and repayment of said Note(s) in consideration for Mortgagee loaning the funds described in said Notes to Borrower under the terms specified therein, and

WHEREAS: Mortgagee's agreement to lend funds to Borrower is of valuable consideration to Mortgagor,

NOW, THEREFORE: In consideration of the covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the Mortgagor hereby mortgages to Mortgagee, its successors and assigns that certain property in the City of Klamath Falls County of Klamath State of Oregon, described as follows:

Lot 12 and the North 10 feet of Lot 11, Block 5, TRACT NO. 1163, CAMPUS VIEW, according to the official plat thereof on file in the Office of the County Clerk of Klamath County, Oregon

Together with the rents, issues and profits thereof, subject, however, to the right, power and authority hereinafter given to and conferred upon Mortgagor to collect and apply such rents, issues and profits prior to any default hereunder, and including all buildings, fixtures, including trade fixtures, improvements, equipment, furniture, furnishings and other tangible personal property of every kind or nature now or hereafter owned by the Borrower or Mortgagor and located or used in connection with the Real Property, and all appurtenances, easements, parking, water, oil, gas or mineral rights, right in party walls, and any further right or interest whatsoever, real or personal, that the Mortgagor or Borrower may now possess or hereafter acquire in the Real Property, all of said items whether now or hereafter installed being hereby declared to be, for all purposes of this Mortgage, a part of the realty; the specific enumerations herein not excluding the general.

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The Mortgagor hereby warrants that the said Mortgagor is the owner in fee simple absolute of the above-described property and every part thereof; that the same is free from all liens and encumbrances except those accepted by Mortgagee in writing, and that the Mortgagor will defend the title hereby granted to and in favor of the Mortgagee as against all and every person claiming or to claim the same.

This Mortgage is made for the purpose of securing, in such order of priority as Mortgagee may elect, payment of (1) the indebtedness in the sum of \$23,000.00 evidenced by that certain Note or Notes of even date herewith made by Borrower, delivered and made payable to Mortgagee, with the final payment due on the 9th day of December, 1984, which is the maturity date of this Mortgage, and any and all modifications, extensions or renewals of said Note(s), whether hereafter evidenced by said Note(s) or otherwise; (2) interest on said indebtedness according to the terms of said Promissory Note; (3) all other sums, with interest as herein provided, becoming due and payable under the provisions hereof to Mortgagee; (4) performance of each and every condition, obligation, covenant, promise or agreement contained herein, or in said Note or Notes, or in any loan agreement relative to any indebtedness evidenced by said Note or Notes, or in any security agreement or mortgage or Trust Deed at any time given to secure any indebtedness hereby secured or any part thereof; (5) such future advances or additional sums with interest thereon as may be hereafter borrowed from the Mortgagee, its successors or assigns, by the then record owner(s) of said property, or by the Borrower, when evidenced by another promissory note or notes which are by the terms thereof secured by this Mortgage.

A. To protect the security of this Mortgage and Assignment of Rents, Mortgagor hereby agrees:

1. Should Borrower refuse or fail to pay all indebtedness secured by this Mortgage when due, Mortgagor will pay, when due, the indebtedness secured by this Mortgage in accordance with the terms thereof. Mortgagor will strictly perform all obligations of this Mortgage and of any loan agreement or security agreement executed in connection with the indebtedness secured by this Mortgage. Mortgagor will promptly comply with all existing or future laws, orders and regulations of all state, federal, municipal and local governments or any similar bodies affecting the mortgaged premises or their use.

2. To keep said property in good condition and repair; not to permit or suffer any extraordinary repairs, or removal or demolition of, or a structural change in any building, fixture, equipment, or other improvement on said property; to comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting said property or requiring any alteration or improvements to be made thereon; not to commit or permit waste thereon; not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumeration herein not excluding the general.

3. To complete or restore promptly and in good and workmanlike manner any buildings or improvements which may be constructed, damaged, or destroyed thereon, and pay when due all costs incurred therefor. The Mortgagor hereby gives to the Mortgagee full authority and power to make such entry and to enter into such contracts or arrangements as may be necessary to complete or restore said building(s)

and all monies expended by the Mortgagee in connection with such completion or restoration shall be added to the principal theretofore advanced under said Note and secured by this Mortgage and shall be payable by the Borrower on demand with interest as provided in said Note(s).

4. To provide insurance against any hazards as requested by Mortgagee and in amounts and forms acceptable to Mortgagee, including but not limited to keeping the buildings and improvements now and/or hereafter upon the said premises unceasingly insured against loss by fire and other hazards in such amount and form as may be required by the Mortgagee, the policy to contain waiver of the fallen building clause, the insurance to be payable in case of loss to the Mortgagee at least ten (10) days prior to the expiration of the policy(ies) renewed. All insurance policies covering any structure upon said premises, regardless of amount shall be payable as aforesaid, shall be carried in companies approved by Mortgagee and deliverable to the Mortgagee. Mortgagee, in case of loss, may make proof of claim. The amount collected under any fire or other insurance policy may be applied by the Mortgagee upon any indebtedness secured hereby and in such order as Mortgagee may determine, without regard to whether or not its security is impaired, or at the sole and absolute option of Mortgagee the entire amount so collected or any part thereof may be released to Mortgagor, but in any event Mortgagee may deduct and retain from the proceeds of such insurance the amount of all expenses incurred by Mortgagee in connection with any such settlement. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

5. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Mortgagee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding, or appeal therefrom.

6. To pay, at least ten (10) days before the due date (and in the case of annual property taxes, before the first installment thereof becomes due) all taxes and assessments affecting said property or upon this Mortgage or the debt secured thereby, or against the Mortgagee by reason of the ownership of said Mortgage and Note, or either of them, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto and to deliver to the Mortgagee upon request the official receipt(s) showing payment thereof; all costs, fees and expenses of this Mortgage.

7. Should Mortgagor fail to make any payment or to do any act as provided for in this subdivision A, then Mortgagee, without obligation so to do and without notice to or demand upon Mortgagor or Borrower and without releasing Mortgagor from any obligation hereof, may make or do the same in such manner and to such extent as the Mortgagee may deem necessary to protect the security thereof, Mortgagee being authorized to enter upon said property for such purpose. The Mortgagee may at all times prior to full payment of all sums secured by this Mortgage, appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Mortgagee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of the Mortgagee appears to be prior or superior hereto; and, in exercising any power conferred by the mortgage, pay necessary expenses, employ counsel and pay his reasonable fees. Mortgagor and Borrower agrees to repay immediately and without demand all sums so expended by Mortgagee with interest from date of expenditure at the rate set forth in said Note(s) secured by this Mortgage.

8. To fully perform all the terms and conditions on his part to be performed in any existing or future lease with respect to which he is lessor covering all or a portion of the above-described real property, and that Mortgagor will not, without the prior written consent of Mortgagee, terminate, cancel or accept the surrender of, or suffer or permit the termination, cancellation or surrender of such lease, except upon the expiration of the term thereof, or materially modify or alter, or suffer or permit the material modification or alteration of such lease. Mortgagor further covenants and agrees not to enter into any lease of all or any portion of the above-described real property without the prior written consent of Mortgagee.

9. To pay all premiums upon any life insurance policy which may be held by the Mortgagee as additional security for the debt herein referred to.

B. It is mutually agreed that:

1. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of or damage or injury to said property or any part thereof, or for the conveyance in lieu of condemnation thereof, are hereby assigned to and shall be paid to Mortgagee. In addition, all causes of action, whether accrued before or after the date of this Mortgage, or all claims for damages or injury to said property or any part thereof, including without limitation, causes of action arising in tort or contract and causes of action for fraud or concealment of a material fact, are hereby assigned to Mortgagee and the proceeds shall be paid to Mortgagee. Mortgagee may elect, in its sole and absolute discretion, without regard to whether or not its security is impaired to apply any and all such sums on any portion of the indebtedness selected by Mortgagee, whether then matured or subsequently to mature, or to release the entire amount so received by Mortgagee or any part thereof.

2. By accepting payment of any sum secured hereby after its due date, Mortgagee does not waive its right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

3. At any time or from time to time, without liability therefor and without notice, and without affecting the personal liability of any person or entity for payment of the indebtedness secured hereby, Mortgagee may: release all or any part of said property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement or in any agreement subordinating the lien or charge hereof.

4. Mortgagor hereby assigns the rents, issues and profits of the property and hereby gives to and confers upon Mortgagee the right, power and authority, during the continuance of this Mortgage, to collect the rents, issues and profits of said property, reserving unto Mortgagor the right, prior to any default by Mortgagor or the Borrower in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they

become due and payable. Upon any such default Mortgagee 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, or the solvency of Mortgagor, or the presence of waste or danger of loss or destruction of the security, enter upon and take possession of said property or any part thereof, and any personal property in which Mortgagee has a security interest as additional security for the indebtedness secured by this Mortgage, in his own name sue for or otherwise collect such 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 Mortgagee may determine. The entering upon and taking possession of said property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

5. Time is material and of the essence hereof. If Borrower does not pay the secured indebtedness as provided, or if Mortgagor does not comply with the terms and conditions of this mortgage, or if Mortgagor or Borrower defaults on any provision of any prior Mortgage, or if a proceeding under any bankruptcy, receivership or insolvency law be instituted by or against Mortgagor or Borrower, or if Mortgagor or Borrower makes an assignment for the benefit of creditors, this Mortgage shall be in default. Any default under this Mortgage shall constitute a default under the Note which it secures and under all of the security instruments securing the Note(s). Any default under such other security instruments or the secured Note or Notes shall constitute a default under this Mortgage. In any event of default, the Mortgagee may declare all sums secured hereby immediately due and payable, and this Mortgage may be foreclosed. Mortgagor consents to a personal deficiency judgment for any part of the debt hereby secured which shall not be paid by the sale of the property, unless such judgment is prohibited by law or unless the Mortgagor has not executed the Note or Notes secured hereby and expressly waives any claim of homestead and all rights to possession of the property during the period allowed by law for redemption.

6. If Mortgagee elects to commence suit for the foreclosure of this Mortgage, Mortgagor and Borrower agrees to pay to Mortgagee the costs of such suit and such reasonable sum for attorney's fees as the court may allow, including those on appeal, whether said suit be brought to a decree or not and also such further sums, if any, as Mortgagee shall have paid for procuring an abstract of, or search of, the title to said premises subsequent to the execution of this Mortgage. All monies herein agreed to be paid shall be secured hereby.

7. This Mortgage applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Mortgagee shall mean the owner and holder, including pledges, of the Note(s) secured hereby, whether or not named as Mortgagee herein. In this Mortgage, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular includes the plural.

8. a. This loan is personal to Mortgagor and not assignable. In making it Mortgagee has relied on Borrower's credit, Mortgagor's interest in the property, and financial market conditions at the time this loan is made. If Mortgagor transfers or contracts to transfer title to or possession of all or part of the property, by deed, contract of sale, lease for a term in excess of one year, or similar agreement without the prior written consent of Mortgagee, Mortgagee may declare the entire balance of this loan immediately due and payable.

b. Any increase in the interest rate secured hereunder shall entitle Mortgagee to increase the monthly payments so the secured debt will be paid in full by the maturity date of this Mortgage.

c. Assumption does NOT release Mortgagor or Borrower or any successor in interest from personal liability for payment and performance of the terms and conditions of this loan.

9. Any Mortgagor or Borrower who is a married person hereby expressly agrees that recourse may be had against his or her other property, whether or not separately owned, but without hereby creating any lien or charge thereon, for any deficiency due after sale of the property hereunder; except that this provision shall not apply in the case of a Mortgagor who executes this Mortgage but not the note secured hereby.

10. Mortgagor, for itself and for all persons hereafter claiming through or under it or who may at any time hereafter become holders of liens junior to the lien of this Mortgage, hereby expressly waives and releases all rights to direct the order in which any of the property shall be sold in the event of any sale or sales pursuant hereto and to have any of said property and/or any other property now or hereafter constituting security for any of the indebtedness secured hereby marshaled upon any foreclosure of this Mortgage or of any other security for any of said indebtedness.

11. In the event any one or more of the provisions contained in this Mortgage shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Mortgage but this Mortgage shall be construed as if such invalid, illegal or unenforceable provision has never been contained herein.

12. Notwithstanding any other provision of this Mortgage, any person who executes this Mortgage but not the Note(s) secured hereby, shall have no personal liability on the Note or for any deficiency judgment which may be obtained upon foreclosure of this Mortgage. Such persons jointly and severally waive presentment, demand, protest and all notices and agree that Mortgagee, without notice to them or their consent, and upon such terms as Mortgagee may deem advisable and without affecting in any way Mortgagee's rights hereunder as against the Property, may:

a. Extend, release, surrender, exchange, compromise, discharge or modify any right or obligation secured by or provided by this Mortgage or any other instrument securing this loan, or

b. Take any other action which Mortgagee may deem reasonably appropriate to protect its security interest in the property.

13. This Mortgage has been executed and delivered in the State of Oregon and is to be construed and enforced according to and governed by the laws of the State of Oregon.

14. Upon demand, Mortgagor will provide Mortgagee with operating statements and other financial information relevant to the use, operation and income of the property, including access to the books and records.

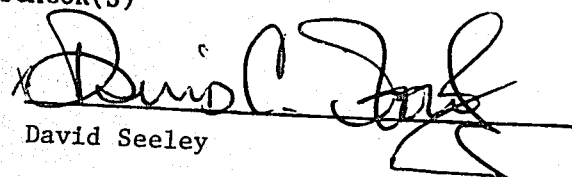
15. Mortgagor covenants and agrees to keep, observe and perform and to require the tenants to keep, observe and perform all of the covenants, agreements, and provisions of any present or future leases of any portion of the mortgaged property on the respective parts to be kept, observed and performed, and, in case Mortgagor shall neglect or refuse to do so, then Mortgagee may, if Mortgagee shall so elect, perform and comply with or require performance and compliance by the tenants with any such lease covenants, agreements and provisions, and any sums expended by Mortgagee in performance or compliance therewith or in enforcing such performance or compliance by the tenants, including costs, expenses and attorney's fees, shall bear interest from the date of such expenditures at the highest rate then being paid on any note secured by this Mortgage, shall be paid by Mortgagor or Borrower to Mortgagee upon demand, and shall be deemed a part of the debt secured hereby and recoverable as such in all respects.

Mortgagor will not enter into any renewal or modification of existing tenancies, nor enter into any future lease of any portion of the property without the prior written consent of Mortgagee to the form, terms and conditions thereof.

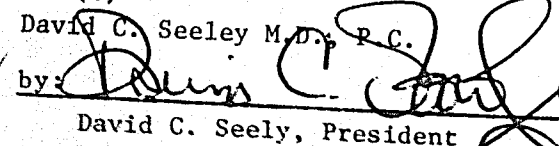
16. In the event Mortgagor or Borrower or any other maker, endorser, or guarantor of the notes secured by this Mortgage has entered or does in the future enter into any other loan agreement, deed of trust, mortgage, or note payable to Mortgagee, a default in the terms and provisions of the other loan agreement, note, or instrument securing it shall constitute a default hereunder.

Nothing in the preceding paragraph shall in any way lessen or impair the rights of the Mortgagee with respect to this Mortgage and the note or notes which it secures. Mortgagee, at its option, may separately enforce the provisions of any loan, note, or deed of trust or mortgage securing it. Default under each loan, note or deed of trust or mortgage shall constitute a separate cause of action and the institution of proceedings upon one, but not upon both or all, shall not be construed as a splitting of a cause of action by the Mortgagee or a waiver of any rights under any loan, note or deed of trust or mortgage.

SIGNATURE OF MORTGAGOR(S)


David Seeley

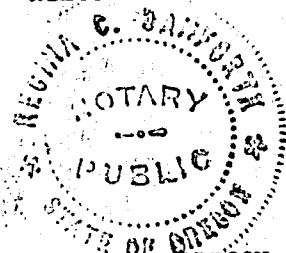
SIGNATURE OF BORROWER(S)

David C. Seeley M.D., P.C.
X by: 
David C. Seely, President

21085

STATE OF OREGON, County of Klamath) ss.

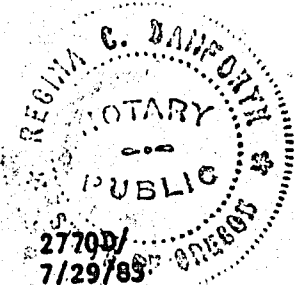
On the 9th day of December, 1983, personally appeared before me the above named individuals who acknowledged the foregoing to be their voluntary act and deed.



Regina C. Danforth
 Notary Public for Oregon
 My Commission Expires: 10-30-87

STATE OF OREGON, County of Klamath) ss.

On the 9th day of December, 1983, personally appeared before me the above named individual, who being duly sworn did say that he is the President of David C. Seeley M.D., P.C. and that said instrument was signed and sealed in behalf of said Corporation by authority of its Board of Directors and that said instrument was the free act and deed of said Corporation.



Regina C. Danforth
 Notary Public for Oregon
 My Commission Expires: 10-30-87

STATE OF OREGON,)
 County of Klamath)

Filed for record at request of

on this 9th day of Dec. A.D. 19 83
 at 3:37 o'clock P M, and duly
 recorded in Vol. M83 of Mortgages
 Page 21078

EVELYN BIEHN, County Clerk

By *Pam Smith* Deputy

Fee 32.00