MTC - 70250TM

05 JUL 20 PM2:45

Vol M05 Page 55765

AFTER RECORDING RETURN TO:
AMERITITLE
300 Klamath Avenue
Klamath Falls, OR 97601

ESCROW NO. MT70250-TM

State of Oregon, County of Klamath
Recorded 07/20/05 2:45 p. m
Vol M05 Pg 55765 - 69
Linda Smith, County Clerk
Fee $ 41⁰⁰ # of Pgs 5

Grantor: ROBERT L. SMITH
1593 SILVERT AVENUE
CHICO, CA 95926

Beneficiary: JOHN J. OPPERTSHAUSER
106 E. BONITA, #5
PAYSON, AZ 85541

TRUST DEED

THIS TRUST DEED, made on JULY 11, 2005, between **ROBERT L. SMITH**, as Grantor, **AMERITITLE, an Oregon Corporation**, as Trustee, and **JOHN J. OPPERTSHAUSER**, 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:

SEE EXHIBIT A WHICH IS MADE A PART HEREOF BY THIS REFERENCE

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 the property.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the sum of ****TEN THOUSAND FOUR HUNDRED AND NO/100ths** Dollars, with interest thereon** according to the terms of a promissory note of even date herewith, payable to beneficiary or order and made payable by grantor, the final payment of principal and interest hereof, if not sooner paid, to be due and payable 07/23/2012.

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of said note becomes due and payable. In the event the within described property, or any part thereof, or any interest therein is sold, agreed to be sold, conveyed, assigned, or alienated by the grantor without first having obtained the written consent or approval of the beneficiary, then, at the beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed therein or herein, shall become immediately due and payable.

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 workmanlike manner any building or improvement which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred therefore.
3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the property; if the beneficiary so requests, to join in executing such financing statements pursuant to the Uniform Commercial Code as the beneficiary may require and to pay for filing same in the proper public office or offices, as well as the cost of all lien searches made by filing officers or searching agencies as may be deemed desirable by the beneficiary.
4. To provide and continuously maintain insurance on the buildings now or hereafter erected on said premises against loss or damage by fire and such other hazards, as the beneficiary may from time to time require, in an amount not less than the **$N/A**, written by one or more companies acceptable to the beneficiary, with loss payable to the latter. All policies of insurance shall be delivered to the beneficiary as soon as insured. If grantor shall fail for any reason to procure any such insurance and to deliver said policies to the beneficiary at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on said buildings, the beneficiary may procure same at grantor's expense. The amount collected under any fire or other insurance policy may be applied by beneficiary upon any indebtedness secured hereby and in such order as beneficiary may determine, or at option of beneficiary the entire amount so collected, or any part thereof, may be released to grantor. 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 keep said premises free from construction 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 therefore 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

---

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 the United States, a title insurance company authorized to insure title to real property of this state, its subsidiaries, affiliates, agents or branches, the United States or any agency thereof, or an escrow agent licensed under ORS 696.505 to 696.585.

41 am

the concurring written instruction of all the parties hereto or their successors in interest. All payoffs must be tendered in the form of COLLECTED FUNDS. If collected funds are not received by AMERITITLE, additional interest will be charged to allow clearance of checks tendered.

(4) You are authorized to retain all funds paid into this escrow after you have received notice of the death of one of the Payees until you have received from the surviving Payee and the personal representative of the deceased Payee joint written instructions for the disposition of such funds, or until you shall have been otherwise satisfied of the identity of the person or persons entitled to receive such funds; the provisions of this paragraph shall be applicable whether or not the Payees are husband and wife and whether or not the documents deposited herewith shall create or purport to create a right of survivorship, as between the Payees.

(5) Notwithstanding anything to the contrary therein appearing, you have no duty to know or determine the performance of nonperformance of any term or condition of any contract or agreement between the parties hereto, and your duties and responsibilities are limited to those specifically stated herein. You have no responsibility for the authenticity, validity or sufficiency of any document deposited or for the accuracy of any description of any document deposited, the description having been supplied by the parties. Your sole duty with respect to such documents is to hold and dispose of the same as herein provided. In the event of conflict or omission between the agreement between the parties and these escrow instructions the escrow instructions shall control as to the escrow agent.

(6) In the event the interest of either the Payee or Payor shall pass to any other party or parties, you are not required to take notice of same unless and until such documents in evidence thereof as may be satisfactory to you and required by you, have been deposited with you together with any assignment fee required.

(7) If a controversy shall arise between the parties thereto and with any third person, you may await the outcome of such controversy by final legal proceedings, or otherwise, as you may deem appropriate, or you may institute such interpleader or other proceedings as you may deem proper, and in such events you shall not be liable for interest or damages. In the event of any controversy whether or not resulting in litigation, or in the event of any action to recover your expenses of charge from either or both of the parties hereto, you shall be entitled in reasonable attorney's fees and reimbursement for your expenses.

(8) If any fire insurance or other insurance policies are deposited in this escrow, you shall have no responsibility for the sufficiency thereof, and you shall have no duty to pay or see to the payment of any premiums thereon or to renew or to see to the renewal thereof or to notify any person of the expiration thereof. Your responsibility with respect to any such policy shall be the safekeeping thereof.

(9) If taxes, insurance premiums, collection costs, late charges, or advances to service underlying debt owed by Payor, are paid by Payee and Payee requests in writing that these amounts be added to the unpaid balance of the account, escrow company does not have a duty to determine the validity of these sums, but shall add said sums to the unpaid balance when notified in writing by Payee together with evidence of such payment. Interest shall accrue on such sums from the date notice is received by escrow agent.

(10) In addition to the escrow set-up fee, the parties jointly and severally agree to pay reasonable compensation for any services not described in these instructions and you are given a lien upon all funds, documents and other property held by you to secure the payment of all fees and expenses or to reimburse you in the event any checks delivered to you for this account shall be returned unpaid for any reason. The parties agree to pay your collection fees, close out fees, and release fees, which are subject to adjustments according to your published rates in effect at the time payment is due.

(11) At any time after the expiration of one year from the time when this escrow shall by its terms be concluded or when inactive for 1 year, you may, without notice to the parties, close your records, deliver the documents in your possession, by certified mail, to the Payee(s), thereby terminating your responsibilities with respect to this escrow.

(12) This agreement is binding upon the heirs, executors, administrators, successors, and assigns of all parties hereto.

(13) In the event any provision in the escrow instructions or contract herein shall refer to a mortgage or contract balance which is being computed other than in your escrow, escrow shall not be bound to keep a record of the said balance. It shall be the duty of the parties hereto to keep the escrow company advised of said balance. No liability shall attach to any action or failure to act by AMERITITLE, in the event information has not been delivered to it prior to a time any such information shall be material to the performance of the escrow instructions or contracts.

(14) Escrow Company is under no obligation to give notice as to changes of interest or ownerships, lapses of insurance, the state of payment of taxes or assessments, or other encumbrances, condemnations, fires, or the condition of any property mentioned in the documents handed to it, or cause notice of delinquency, or dishonor or protest to be given; and any giving of such notice or notices by Escrow Company shall not be deemed to be an assumption by it of any obligation as to the giving of any subsequent notice or notices.

(15) A NSF charge shall be imposed by Escrow Agent for any payment dishonored for any reason as well as any other fees or costs due Escrow Agent. Payees agree to refund to Escrow Agent upon request any remittances made by Escrow Agent that were subsequently dishonored. The NSF charge shall accompany the next payment made by Payor or Escrow Agent will deduct the fee from the next payment received. In the event of an NSF check Escrow Agent may thereafter require all payments to be made in cash, money order or cashier's check.

(16) You are authorized to release any information regarding this escrow to a party identifying themselves as representing the undersigned or any of them.

(17) You may resign from and cancel this escrow agreement of your option upon ninety days written notice of your intention to do so mailed by ordinary mail to the parties hereto at their respective addresses last known to you. At the expiration of said period you may return the papers herein by ordinary mail, to the Payee, or any of them, and your liability hereunder shall thereupon cease and terminate.

(18) This escrow may be transferred to any other licensed escrow agent in the State without further consent of the undersigned.

(19) In construing these instructions and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions thereof to apply to corporation and to individuals.

(20)In the event your check is lost or misplaced, you may upon receipt of signed request and Indemnity Affidavit for Missing Check, order a stop payment from your bank. A reissue fee will be charged if request is placed prior to the expiration of seven (7) business days from the date of issue of the original check. A reissue fee will be charged upon written instructions requesting a change in the payee of the original check.

(21) In the event the documents deposited herein, or by subsequent amendments or changes. have been executed by Power of Attorney, you shall not be responsible for determining the status or validity of said Power of Attorney. You may rely on any such Power of Attorney until you receive actual notice of revocation.

In response to the Gramm-Leach-Bliley Act, the appropriate parties have been provided with a copy of AMERITITLE's Privacy Policy.

the rate set forth in the note secured hereby, together with obligations described in paragraphs 6 and 7 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 nonpayment 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 all costs, fees and expenses of this trust deed 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.

7. To appear in and defend any action or proceeding purporting to affect the security rights or powers of beneficiary or trustee; and in any suit, action or proceeding in which the beneficiary or trustee may appear, including any suit for the foreclosure of this deed, to pay all costs and expenses, including evidence of title and the beneficiary's or trustee's attorney's fees; the amount of attorney's fees mentioned in this paragraph 7 in all cases shall be fixed by the trial court and in the event of an appeal from any judgment or decrees of the trial court, grantor further agrees to pay such sum as the appellate court shall adjudge reasonable as the beneficiary's or trustee's attorney's fees on such appeal.

It is mutually agreed that:

8. 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 such reasonable costs and expenses and attorney's fees, both in the trial and appellate courts, 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.

9. 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 reconveyances, 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 or charge thereof; (d) reconvey, without warranty, all or any part of the property. 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 not less than $5.

10. Upon any default by grantor hereunder, beneficiary may at any time without notice, either in person, by agent or by a 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 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.

11. 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 polices 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.

12. Upon default by grantor in payment of any indebtedness secured hereby or in his performance of any agreement hereunder, time being of the essence with respect to such payment and/or performance, the beneficiary may declare all sums secured hereby immediately due and payable. In such an event the beneficiary at his election may proceed to foreclose this trust deed in equity as a mortgage or direct the trustee to foreclose this trust deed by advertisement and sale, or may direct the trustee to pursue any other right or remedy, either at law or in equity, which the beneficiary may have. In the event the beneficiary elects to foreclose by advertisement and sale, the beneficiary or the trustee shall execute and cause to be recorded his written notice of default and his election to sell the said described real property to satisfy the obligation secured hereby whereupon the trustee shall fix the time and place of sale, give notice thereof as then required by law and proceed to foreclose this trust deed in the manner provided in ORS 86.735 to 86.795.

13. After the trustee has commenced foreclosure by advertisement and sale, and at any time prior to 5 days before the date the trustee conducts the sale, the grantor or any other person so privileged by ORS 86.753, may cure the default or defaults. If the default consists of a failure to pay, when due, sums secured by the trust deed, the default may be cured by paying the entire amount due at the time of the cure other than such portion as would not then be due had no default occurred. Any other default that is capable of being cured may be cured by tendering the performance required under the obligation or trust deed. In any case, in addition to curing the default or defaults, the person effecting the cure shall pay to the beneficiary all costs and expenses actually incurred in enforcing the obligation of the trust deed together with trustee's and attorney's fees not exceeding the amounts provided by law.

14. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale or the time to which said sale may be postponed as provided by law. The trustee may sell said property either in one parcel or in separate parcels and shall sell the parcel or parcels at auction to the highest bidder for cash, payable at the time of sale. Trustee shall deliver to the purchaser its deed in form as required by law conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive proof of the truthfulness thereof. Any person, excluding the trustee, but including the grantor and beneficiary, may purchase at the sale.

15. 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 the compensation of the trustee and a reasonable charge by trustee's attorney, (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 interests may appear in the order of their priority and (4) the surplus, if any, to the grantor or to his successor in interest entitled to such surplus.

16. 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, which, when recorded in the mortgage records of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

17. 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. The grantor covenants and agrees to and with the beneficiary and the beneficiary's successor in interest that the grantor is lawfully seized in fee simple of the real property and has a valid, unencumbered title thereto and that the grantor will warrant and forever defend the same against all persons whomsoever.

WARNING: Unless grantor provides beneficiary with evidence of insurance coverage as required by the contract or loan agreement between them, beneficiary may purchase insurance at grantor's expense to protect beneficiary's interest. This insurance may, but need not, also protect grantor's interest. If the collateral becomes damaged, the coverage purchased by beneficiary may not pay any claim made by or against grantor. Grantor may later cancel the coverage by providing

evidence that grantor has obtained property coverage elsewhere. Grantor is responsible for the cost of any insurance coverage purchased by beneficiary, which cost may be added to grantor's contract or loan balance. If it is so added, the interest rate on the underlying contract or loan will apply to it. The effective date of coverage may be the date grantor's prior coverage lapsed or the date grantor failed to provide proof of coverage. The coverage beneficiary purchases may be considerably more expensive than insurance grantor might otherwise obtain alone and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

The grantor warrants that the proceeds of the loan represented by the above described note and this trust deed are:
for an organization, or (even if grantor is a natural person) are for
business or commercial purposes.

This deed applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors, and assigns. The term beneficiary shall mean the holder and owner, including pledgee, of the contract secured hereby, whether or not named as a beneficiary herein.

In construing this trust deed, it is understood that the grantor, trustee and/or beneficiary may be more than one person; that if the context so requires, the singular shall be taken to mean and include the plural and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

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

ROBERT L. SMITH

STATE OF CALIFORNIA

COUNTY OF Butte ss.

On July 18, 2005 before me, D. Fisher, Notary personally appeared ROBERT L. SMITH personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that He executed the same in his authorized capacity(ies), and that by his signatures(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature ______________________

D. FISHER
Commission # 1487634
Notary Public - California
Butte County
My Comm. Expires May 4, 2008

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 the 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 the trust deed or pursuant to statute, to cancel all evidences of indebtedness secured by the trust deed (which are delivered to you herewith together with the trust deed) and to reconvey, without warranty, to the parties designated by the terms of the trust deed the estate now held by you under the same.

Mail reconveyance and documents to:

____

DATED: __________________, ________. ______________________

____
Beneficiary

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

EXHIBIT A

55769

Lots 24 and 25 in Block 16 of OREGON SHORES SUBDIVISION, TRACT NO. 1053, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

Tax Account No:	3507-006DA-04300-000	Key No:	228453
Tax Account No:	3507-006DA-04200-000	Key No:	228462