



MTC 376298 Am

**2020-008642**

**Klamath County, Oregon**

07/15/2020 09:58:49 AM

Fee: \$102.00

**After Recording Return to:**

AmeriTitle - Acct. Servicing

300 Klamath Ave.

Klamath Falls, OR 97601

**TRUST DEED**

This Trust Deed executed on the 14<sup>th</sup> day of July 2020, is made between Benjamin C. Roberts and Christina M. Roberts, husband and wife, as Grantor; AmeriTitle, as Trustee; and Mary M. Couchner, in her capacity as Trustee of the Barbara S. Mollison Family Trust, Dated May 25, 2006, and her successor in Trust, as Beneficiary.

**WITNESSETH:**

Grantor irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, certain real property in County of Klamath, State of Oregon described as follows, to wit:

**PARCEL NO. 1:**

Commencing at the intersection of the center of Conger Avenue and Main Street according to the recorded plat of the survey of Conger Avenue as recorded in Plat Book 2 at Page 2, in the office of the County Clerk of Klamath County, Oregon, taking the center of Main Street as N. 66°42' E; thence N. 19° 48' W., 465.5 feet; thence N. 42° 18' W., 159.33 feet; thence S. 49° 30' W., 17.5 feet to the beginning of the description of this land to be conveyed, said beginning being a point on the southwesterly boundary of Conger Avenue; thence S. 49° 30' W., 125 feet; thence N. 76° 44' W., 49.7 feet; thence S. 49° 30' W., 18.0 feet; thence N. 42° 18' W., 50.5 feet; thence N. 49° 30' E., 171.0 feet, more or less, to the southwesterly boundary of Conger Avenue; thence S. 42° 18' E., 90.8 feet, more or less, to the point of beginning.

Subject to the easement agreement for driveway purposes dated August 20, 1956, between Rose M. Poole, a widow, and Mary Telford and Ray Telford, wife and husband, recorded September 7, 1956, in Vol. 286, at page 402, of Klamath County Deed Records, and together with the benefits thereof.

And further giving and granting unto grantees and their heirs and assigns as owners of the above described property, the perpetual easement for driveway and parking purposes over the following described land:

Beginning at the most westerly corner of the parcel of land first herein described; thence S. 42° 18' E., 50.5 feet; thence S. 49° 30' W., 14.0 feet; thence N. 42° 18' W., 50.5 feet; thence N. 39° 30' E., 14.0 feet, more or less, to the point of beginning.

But reserving unto Grantor, her heirs and assigns, the perpetual easement for driveway and parking purposes over the following described land:

Beginning at the most westerly corner of the parcel of land first herein described; thence S. 42° 18' E., 50.5 feet; thence N. 49° 30' E., 12.0 feet; thence N. 42° 18' W., 50.5 feet; thence S. 49° 30' W., 12.0 feet, more or less, to the point of beginning.

Klamath County Assessor's Account No. R-3809-032BD-12400-000

PARCEL NO. 2:

Commencing at the intersection of the center of Conger Avenue and Main Street, according to the recorded plat of the survey of Conger Avenue as recorded in Plat Book 2 at page 2 in the office of the County Clerk of Klamath County, Oregon, taking the center line of Main Street as North 66°42' East; thence North 19°48' West, 465.5 feet; thence North 42°18' West, 159.33 feet; thence South 49°30' West, 17.5 feet to a point on the Southwesterly boundary of Conger Avenue; thence continuing South 49°30' West a distance of 125.0 feet to the true point of beginning of this description; thence South 42°18' East, a distance of 15.0 feet; thence South 49°30' West a distance of 46.0 feet; thence North 42°18' West a distance of 55.3 feet; thence North 49°30' East a distance of 18.0 feet; thence South 76°44' East a distance of 49.7 feet to the point of beginning, being a portion of Lot 8, Section 32, Township 38 South, Range 9 E., W.M.

Subject to: Rights of the public in any of herein described premises lying below the high water line of Link River; Agreement for driveway easement, including the terms and provisions thereof, recorded September 7, 1956, in Deed Volume 286, page 402, Records of Klamath County, Oregon; Reservations and restrictions contained in deed recorded March 14, 1962, in Deed Volume 336, page 161, Records of Klamath County, Oregon.

Klamath County Assessor Parcel No. R-3809-032BD-12500

The above described property is free of encumbrances except all those items of record, if any, as of the date of this deed and those shown below, if any.

Together with all and singular tenements, hereditaments and appurtenances and all other rights thereunto belonging or in any way 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 ONE HUNDRED EIGHTY THOUSAND DOLLARS (\$180,000.00), with interest thereon according to the terms of a promissory note of even date herewith, payable to beneficiary or order and made by grantor, the final payment of principal and interest thereof, if not sooner paid, to be due and payable on July 1, 2022.

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

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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 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; 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 the same in the proper public office or offices, as well as the costs of all lien searches made by filing officers or searching agencies as may be deemed desirable by the beneficiary.

4. To keep adequate and current insurance on the property on the buildings now or hereafter erected on the said property against loss or damage by fire and other hazards as the Beneficiary may require, in an amount not less than **\$200,000.00**, written by companies acceptable to the Beneficiary, with loss payable to Beneficiary; proof of insurance shall be delivered to Beneficiary as soon as issued.

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 or other charges become past due or delinquent and promptly deliver receipts therefore to Beneficiary.

6. Should Grantor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable to Grantor, either by direct payment or by providing Beneficiary with funds with which to make such payment, Beneficiary may, at its own option, make payment thereof, and the amount so paid, with interest at the rate set forth in the note secured hereby, together with the obligations of Grantor, described in paragraphs 7 and 8 of this Trust Deed section, shall be added to and become 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 herein before 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.

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 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 in all cases shall be fixed by the trial court and in the event of an appeal from any judgment or decree of the trial court, grantor further agree 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:

9. In the event that any portion of 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, 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 competition, 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 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 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 not be less than \$5.

11. Upon 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 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 their 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 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 by Oregon law.

14. After the trustee has commenced foreclosure by advertisement and sale, and at any time prior to five (5) days before the date the trustee conducts the sale, the grantor or any other person so privileged, 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 cable of being cured may be cured by tendering the performance required under the obligation or trust deed. If any case, in addition to curing the default or defaults, the persons 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.

15. 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.

16. When trustee sells pursuant to the powers provided herein, trustee shall apply the proceeds of sale to payment of (1) the expense of the 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.

17. 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.

18. Trustee accepts this trust when this deed, duly executed and acknowledge 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 by such action or proceeding is brought by the trustee.

The Grantor covenants and agrees to and with the beneficiary and those claiming under the beneficiary, that they are lawfully seized in fee simple of said described real property and have a valid, unencumbered title thereto EXCEPT for a promissory note in the original principal sum of **\$180,000.00** in favor of Mary M. Coucher, in her capacity as Trustee of the Barbara S. Mollison Family Trust, Dated May 25, 2006, and her successor in Trust, and that they will warrant and forever defend the same against all persons whomever.

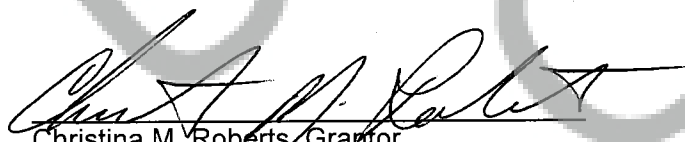
***The grantor warrants that the proceeds of the loan represented by the above described note and this trust deed are primarily for grantor's personal, family or household purposes.***

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 pledge, of the contract secured hereby, whether or not named as a beneficiary herein. In construing this deed and whenever the context so requires, the masculine gender includes the feminine and the neuter, and the singular number includes the plural.

IN WITNESS WHEREOF, Grantor accepts and agrees to the terms and covenants contained in this Security Instrument.

  
Benjamin C. Roberts, Grantor

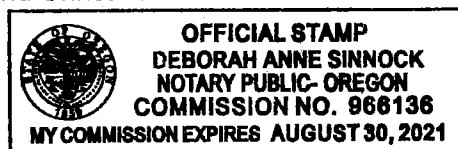
7.14.2020  
Date

  
Christina M. Roberts, Grantor

7/14/20  
Date

STATE OF OREGON, County of Klamath) ss.

This instrument was acknowledged before me on July 14, 2020, by Benjamin C. Roberts and Christina M. Roberts.



  
Notary Public for Oregon  
My Commission Expires: 8-30-21