Compared

2134 FILED FOR RECORD THE 4 DAY OF JUNE A.D. 1985 at 3:00 P.M.
MTG. REC. 143, Page 211
Mary E. Welty, Recorder
Fee $10.00

AMENDED AND SUBSTITUTED

MORTGAGE

For full and valuable consideration, receipt of which is hereby acknowledged Winterset Development Company II, a Limited Partnership, Jeffrey W. Voorhees and Michael G. Voorhees, **of** Polk **County, Iowa, hereinafter called Mortgagor, hereby sells and conveys to** Farmers and Merchants State Bank, Winterset, Iowa, **a corporation organized and existing under the laws of** Iowa**, having its principal place of business and post-office address at** P. O. Box 29 Winterset, Iowa 50273 **hereinafter called the Mortgagee: the following described real estate situated in** Madison **County, Iowa, to-wit:**

Lots Twenty-four (24), Twenty-five (25), and Twenty-six (26), of Northwest Development - Plat 1, to the City of Winterset, Madison County, Iowa,
AND
All that part of Lot Twenty-seven (27) in Northwest Development - Plat 1 to the City of Winterset, Madison County, Iowa, which is West of a line described as commencing at the Northeast corner of Lot Twenty-six (26) in the said Northwest Development - Plat 1, thence South to the South line of said Lot Twenty-seven (27); and the Easement from Winterset Development Company to Jeffrey W. Voorhees and Michael G. Voorhees, recorded July 30, 1981, in Town Lot Deed Record 50 on Page 192 over the following-described portion of Lot 27 to reach all that part of lot 27 which is West of the West line of the said easement property extended South to the southern boundary of Lot 27 in Northwest Development - Plat 1 to the City of Winterset; Commencing at the Northeast Corner of Lot 26, thence South along the Eastern boundary of Lot 26 to a point 50 feet South of the Southeast Corner of Lot 26, thence East 50 feet, thence North to and along the Western boundary of Lot 28 to the Northwest Corner of Lot 28, thence in a Westerly direction to the point of beginning, all in Northwest Development - Plat 1 to the City of Winterset, Madison County, Iowa.

This amended and substituted mortgage amends and is substituted for the mortgage from Winterset Development Company II, a Limited Partnership, to Farmers & Merchants State Bank, Winterset, Iowa, recorded in Book 143, Page 74 and the mortgage from Jeffrey W. Voorhees, individually,and Michael G. Voorhees, individually, to Farmers & Merchants State Bank, Winterset, Iowa, recorded in Book 143, Page 76.

FOR RELEASE OF ANNEXED MORTGAGE SEE MORTGAGE RECORD 144 PAGE 517

together with all rights, privileges, easements, appurtenances, buildings, fixtures, and improvements thereon, or that may hereafter be erected thereon, whether attached or detached; all gas, steam or electric heating, lighting, plumbing, ventilating, water, and power systems, appliances, refrigeration, air conditioning, fences, trees, shrubs, shades, rods, venetian blinds, awnings, fixtures and apparatus; all storm and screen windows and doors, and all other fixtures; all estates, contingent or vested, including reversions; all expectancies, homestead and dower rights, or rights to statutory third, the right of possession thereof, and all other rights thereto belonging, or in any way now or hereafter appertaining thereto, and the rents, issues, uses, profits and income therefrom, and all of the crops at any time raised thereon from the date of this agreement until the terms of this instrument are compiled with and fulfilled and subrogation to the rights of any holder of a lien on said property where the money loaned by mortgagee to mortgagor is used to pay such lien-holder; to have and to hold the same unto the mortgagee in fee and absolutely,

conditioned, however, and subject to the provisions that if the mortgagor shall pay the sum of Five Hundred Thousand Dollars and no/100---------- **DOLLARS ($** 500,000.00 **) to the mortgagee as is provided in certain promissory note or notes of even date herewith, and maturing as therein provided, with interest at the rate therein specified, and if mortgagor shall also have paid all other indebtedness secured by this mortgage and shall also fully perform all the covenants, conditions and terms of this mortgage, then these presents shall be void, otherwise to remain in full force and effect.**

In addition to securing the above described note, this mortgage shall also be first lien security for any additional loans and advances for any purpose whatsoever which hereafter may be made under this mortgage by the mortgagee to the original mortgagor while still record owner of the above property, said additional advances to have the same priority and rights as if made at this date, provided, however, that at no time shall the unpaid balances owing hereunder, including such additional advances or loans, exceed $ 500,000.00 **plus necessary advances for protection of the security, interest and costs. This paragraph shall not constitute a commitment to make additional loans in any amount.**

Mortgagor, for himself, his heirs and for vendees of said real estate, hereby covenants and agrees:

1. That the mortgagor is lawfully seized of said premises in fee simple; that mortgagor has good right and lawful authority to sell and convey the same; that the premises are free from all liens and encumbrances; that the mortgagee shall, and is hereby granted the right to quietly enjoy and possess the same; and hereby warrants and covenants to defend the title to said premises against all persons whomsoever, and not to commit or suffer waste.

2. That the mortgagor will pay the principal of and the interest on the indebtedness evidenced by the note secured hereby and of advances made, at the times and in the manner therein provided. A failure to comply with any one of the agreements hereof, including warranty of title, shall cause the whole debt, including advances, interest, attorney's fees, and costs, forthwith to become due and collectible if mortgagee so elects, which election may be without notice. From the date the mortgagee so elects to declare the mortgage due, the whole of said indebtedness shall bear interest from the date to which interest has been then paid at the highest legal rate applicable to a natural person, but not less than the rate provided in the note or notes secured hereby. Mortgagee may thereupon take possession of said property and account only for the net profits. No demand for fulfillment of broken conditions or notice of election to consider the debt due shall be necessary before commencement of suit for the collection of the debt hereby secured, or any part thereof, or the foreclosure of this mortgage.

3. That the mortgagor will keep the improvements now existing or hereafter erected on the mortgaged premises, insured as may be required from time to time by the mortgagee against loss by fire and other hazards, casualties and contingencies in such amounts and for such periods as it may require and will pay promptly, when due, any premiums on such insurance. All insurance shall be carried in companies approved by the mortgagee and the policies and renewals thereof shall be held by it and have attached thereto loss payable clauses in favor of and in form acceptable to the mortgagee, provided, however, if the mortgagee should at any time release the mortgagor from the obligation to deposit with mortgagee such policies and renewals thereof such release shall not act as a waiver of the right to in the future require such deposit. In event of loss, mortgagor will give immediate notice by mail to the mortgagee who may make proof of loss if not made promptly by the mortgagor, and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to the mortgagee instead of to the mortgagor and the mortgagee jointly, and the insurance proceeds, or any part thereof, may be applied by the mortgagee at its option, either to the reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged. In event of foreclosure of this mortgage or other transfer of title to the mortgaged property in extinguishment of the debt secured hereby, all right, title, and interest of the mortgagor in and to any insurance policies then in force shall pass to the purchaser or grantee.

4. The mortgagor agrees to pay all and singular the taxes, assessments, levies and encumbrances of every nature heretofore or hereafter assessed against the above described real estate before they have become delinquent, and if the same be not promptly paid before they become delinquent, the mortgagee or its representative may at any time pay the same and the official receipts for moneys so paid shall be conclusive proof of the validity and amount of such taxes and assessments.

5. If now or hereafter demanded, the mortgagor agrees to pay the mortgagee additional monthly installments equal to one-twelfth of such amount as the mortgagee shall estimate to be required for the purpose of accumulating a fund with which to pay, when due, taxes, assessments and premiums on insurance policies securing said notes.

6. That if the taxes are not paid or the insurance not kept in force by mortgagor, mortgagee may pay such taxes and keep the property insured and recover immediately from mortgagor the amount so expended, and said mortgagor shall pay in case of suit, a reasonable attorney's fee, the expense of continuation of abstract, and, in fact, all expenses and attorney's fees incurred by mortgagee by reason of litigation with mortgagor, his successors, or with third parties to protect the lien of this mortgage. All moneys so paid by the mortgagee shall bear interest at the highest legal rate applicable to a natural person, but not less than that provided in the note or notes secured hereby, and shall be included as additional amounts secured by this mortgage.

7. That if this mortgage is released of record, the release thereof shall be filed and recorded at the expense of the mortgagor.

8. That the signing of this mortgage, and the note secured hereby, by the spouse of the owner is not only for the purpose of releasing dower or distributive share but also for the express purpose of creating personal liability of the spouse for the indebtedness evidenced by said note and secured by this mortgage, and that the mortgagee expressly relies upon the foregoing as a material and necessary representation and covenant by such spouse.

9. That if mortgagor fails to keep and perform any of the agreements of this instrument, or causes or suffers default herein, or thereof, in any respect, mortgagee either before commencement of suit, or at any time thereafter, shall be entitled to the possession of said property, real and personal, and shall also be entitled to the appointment of a Receiver, who shall have the power and is hereby granted absolute authority to take and hold possession of all of said property, to rent the same, and to collect the rents and profits therefrom for the benefit of mortgagee; that such Receiver shall be appointed upon the application of mortgagee by the court in which such action shall be brought, or by any judge of said court, at any time after the default of the mortgagor in any of the provisions hereof, either independently of or in connection with the commencement of foreclosure, or when suit is begun, or at any time thereafter, and such rights shall in no event be barred, forfeited or retarded by reason of delay, or of a judgment, decree, or sale ordered in any suit; and, further, such right to have such Receiver appointed upon application of said mortgagee shall exist regardless of the solvency or insolvency of the mortgagor or any of them, and irrespective of the value of said premises, or of the rents and profits thereof; that such taking of possession by the Receiver shall in no way retard collection, or the institution of suit, and the Receiver shall be held to account only for the net profits derived from said property.

10. It is further agreed that in the event of foreclosure of this mortgage and Sheriff's sale of the property involved, the period of redemption from said sale shall be reduced to six (6) months, at the option of the mortgagee, if the mortgagee waives in said foreclosure proceedings any rights to deficiency judgment against mortgagor which may otherwise have arisen out of said foreclosure proceedings. It is further agreed, under Chapter 628, Code, 1966, as amended, that in the event of such foreclosure, and in the event of the finding by court decree in such foreclosure that the real estate hereinabove set out has been abandoned by the owners and persons personally liable under the mortgage at the time of foreclosure, the period of redemption from foreclosure sale will be reduced to sixty (60) days. In such event the mortgagee waives rights to a deficiency judgment against the mortgagor or his successors in interest, subject to the other provisions of the above reference law as amended.

11. If at any time all or any portion of the above-described mortgaged property shall be taken or damaged by condemnation proceedings under the power of eminent domain, all compensation awarded shall be paid directly to the mortgagee and applied on the indebtedness hereby secured.

12. That if more than one join in the execution hereof as a mortgagor, or any be of the feminine sex, the word mortgagor, the pronouns and relative words herein used shall be read as if written in the plural or the feminine respectively. The covenants herein contained shall bind, and the benefits and advantages inure to, the respective heirs, executors, administrators, successors, joint tenants, and assigns of the parties hereto.

13. That the mortgage and the note secured hereunder contain the entire understanding and agreement of the parties.

14. Last payment on Note secured hereby is due the second day of May, 1986

15. PREPAYMENT PROVISIONS, ETC.

This Amended and Substituted Mortgage is given for the purpose of making it clear that the above described earlier mortgages were executed by owners or general partners acting as such on behalf of the owner Limited Partnership.

IN WITNESS WHEREOF this instrument has been signed and delivered by the persons denoted herein as mortgagor.

Dated this 3rd day of June, 1985, at Des Moines, Iowa

Jeffrey W. Voorhees — Michael G. Voorhees

Jeffrey W. Voorhees (typed signature) — Michael G. Voorhees (typed signature)

STATE OF IOWA, Polk COUNTY, ss:

On this 3rd day of June, A. D. 1985, before me, the undersigned, a Notary Public in and for said County, in said State, personally appeared Winterset Development Company II, a Limited Partnership, Jeffrey W. Voorhees and Michael G. Voorhees,

to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

Sharon L. Luther
Notary Public in and for said County

IOWA MORTGAGE No. 2134

MORTGAGE

From

To

Filed for record the 4 day of June, A. D. 1985 3:00 o'clock P M., and recorded in Book 143 of Mortgages on page 211 of Madison County Records.

Mary E. Welty Recorder

By Sec 10.00 Deputy

WHEN RECORDED RETURN TO

SHARON L. LUTHER
Iowa

Form 17 — Revised 4-70
Copyright April, 1970 — Maynard Ptg., Des Moines, Iowa