

63496

Vol. <sup>m</sup> 72 Page 4392C O N T R A C T

28-22-19  
THIS CONTRACT, Made the 1st day of March, 1972, between  
D. E. Colwell (sometimes known as Donald E. Colwell) and Barbara  
D. Colwell (sometimes known as Barbara B. Colwell) husband and  
wife, of the County of Klamath and State of Oregon, hereinafter  
called the first party, and Carmen (Dixie) Diane Ladd, of the  
County of Klamath and State of Oregon hereinafter called the  
second party,

WITNESSETH, That in consideration of the stipulation here-  
in contained and the payments to be made as hereinafter specified,  
the first party hereby agrees to sell, and the second party agrees  
to purchase, the following described real estate, situate in the  
County of Klamath, State of Oregon, to-wit:

A tract of land located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$  and the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of  
Section 22, T. 39S., Range 8 E.W.M., more particularly  
described as follows: Beginning at the quarter corner  
common to Sections 22 and 23; thence due S. 43.0 feet;  
thence S. 61 deg. 24' W 647.2 feet; thence S. 37 deg.  
11' E 485.4 feet to the Northwesterly boundary of the  
Klamath Falls-Ashland Highway; thence along said high-  
way S. 39 deg. 31' W 428.7 feet to a 3/4" galvanized  
iron pipe; thence N. 89 deg. 25' 45" W 1168.7 feet to  
a 3/4" galvanized iron pipe; thence S. along the  
Section line between Sections 22 and 23, 1303.0 feet to  
the point of beginning.

for the sum of Forty-two thousand five hundred and no/100ths  
Dollars (\$42,500.00) on account of which Two thousand five hundred  
and no/100ths Dollars (\$2,500.00) is paid on the execution hereof  
(the receipt of which is hereby acknowledged by the first party)  
and the remainder to be paid to the order of the first party with  
interest at the rate of seven per cent per annum from March 1,  
1972, on the dates and in amounts as follows:

Annual payments in the amount of \$5,090.00, including  
interest, with the first of such payments due July 1,  
1972, and like payments each year thereafter until  
paid.

The second party warrants to and covenants with the first  
party that the real property described in this contract is

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1 primarily for second party's personal, family, household or  
2 agricultural purposes.

3 Taxes for the current tax year shall be prorated between the  
4 parties hereto as of the date of this contract. The second party,  
5 in consideration of the premises, hereby agrees to pay all taxes  
6 hereafter levied and all public and municipal liens and assessments  
7 hereafter lawfully imposed upon said premises, all promptly and  
8 before the same or any part thereof become past due.

9 The first party agrees that at his expense and within thirty  
10 days from the date hereof, he will furnish unto second party a  
11 title insurance policy insuring (in an amount equal to said pur-  
12 chase price) marketable title in and to said premises in the first  
13 party on or subsequent to the date of this agreement; save and  
14 except the usual printed exceptions and the building and other  
15 restrictions and easements now of record, if any. First party also  
16 agrees that when said purchase price is fully paid and upon request  
17 and upon surrender of this agreement, he will deliver a good and  
18 sufficient deed conveying said premises in fee simple unto the  
19 second party, his heirs and assigns, free and clear of encumbrances  
20 since said date placed, permitted or arising by, through or under  
21 first party, excepting, however, the said easements and restrictions  
22 and the taxes, municipal liens, water rents and public charges so  
23 assumed by the second party and further excepting all liens and  
24 encumbrances created by the second party or his assigns.

25 But in case the second party shall fail to make the payments  
26 aforesaid, or any of them, punctually and upon the strict terms  
27 and at the times above specified, or fail to keep any of the other  
28 terms or conditions of this agreement, time of payment and strict  
29 performance being declared to be of the essence of this agreement,  
30 then the first party shall have the following rights: (1) to declare  
31 this contract null and void, (2) to declare the whole unpaid prin-  
32 cipal balance of said purchase price with the interest thereon at  
once due and payable and/or (3) to foreclose this contract by suit

2. CONTRACT

1 in equity, and in any of such cases, all the right and interest  
2 hereby created or then existing in favor of the second party de-  
3 rived under this agreement, shall utterly cease and determine, and  
4 the premises aforesaid shall revert and revest in the first party  
5 without any declaration of forfeiture or act of re-entry, or with-  
6 out any other act by first party to be performed and without any  
7 right of the second party of reclamation or compensation for money  
8 paid or for improvements made as absolutely fully and perfectly  
9 as if this agreement had never been made.

10 Second party agrees to keep the buildings now on or here-  
11 after placed upon the above described real property insured against  
12 loss by fire or other casualty in an amount not less than \$30,000.00  
13 total insurance and shall obtain at his own expense said insurance  
14 in the name of the first party as the primary insured with an  
15 endorsement thereon providing for loss payable to first party and  
16 second party as their respective interests may appear. The policy  
17 or policies of insurance shall be delivered to first party, or,  
18 in lieu thereof, a certificate of such insurance may be provided  
19 by second party and delivered to first party. If a loss should  
20 occur for which insurance proceeds shall become payable, the  
21 second party may elect to either rebuild or repair the portion of  
22 the building so destroyed or apply the proceeds to payment of the  
23 then unpaid balance of the purchase money. If the second party  
24 elects to rebuild, he shall sign such documents as may be necessary  
25 to guarantee the application of the insurance proceeds to the cost  
26 of such rebuilding or repair. If the second party elects to apply  
27 the insurance proceeds toward payment on this contract, any amount  
28 received by first party under any such insurance in payment of a  
29 loss shall be applied upon the unpaid principal balance of the  
30 purchase price and shall reduce said unpaid principal balance to  
31 the extent of the amount of the insurance payment received by first  
32 party.

3 CONTRACT

1       Second party shall be entitled to possession of the above  
2 described real property on March 1, 1972. Second party shall  
3 remain in possession so long as second party is not in default  
4 hereunder. Second party shall and hereby agrees to keep said real  
5 property in clean, sanitary, sightly, attractive condition; to  
6 commit no waste or otherwise damage or injure said premises; to  
7 maintain said premises in accordance with the laws and the ordi-  
8 nances and regulations of any constituted authority applying to  
9 said premises and to make no unlawful use thereof; to pay regularly  
10 and seasonably and before the same shall become delinquent, all  
11 taxes, assessments, and charges levied and assessed against said  
12 real property, and to pay and discharge all encumbrances there-  
13 after placed thereon by second party; to permit no lien or other  
14 encumbrance to be filed upon or placed against said premises with-  
15 out the written consent of first party; and it is further under-  
16 stood and agreed, for the purposes of this provision, that if  
17 second party fails to pay or discharge any taxes, assessments,  
18 liens, encumbrances, or charges, first party, at his option and  
19 without waiver of default or breach of second party, and without  
20 being obliged to do so, may pay or discharge all or any part  
21 thereof all of which said sums so paid by first party shall become  
22 repayable by second party, together with interest at the rate of  
23 seven per cent per annum, upon demand, payment of which is a  
24 condition to delivery of deed hereunder as part of the performance  
25 of this agreement by second party.

26       First party may appear in or defend any action or proceeding  
27 at law, in equity, or in bankruptcy, affecting in any way the  
28 security hereof, and in such event, first party shall be allowed  
29 and paid, and second party hereby agrees to pay, all costs, charges  
30 and expenses, including costs of evidence of title or validity  
31 and priority of the security and attorney's fees in a reasonable  
32 sum, incurred in any such action or proceeding in which first  
party may appear, which shall bear interest at ten per cent from

4. CONTRACT



1 date of demand therefor shall constitute a breach of this contract.

2 In the event all, or a portion, of the real property sold  
3 under this contract should be taken by any entity having the power  
4 of eminent domain, first party may require second party to apply  
5 all proceeds paid by such entity to second party (remaining after  
6 payment by second party of attorney fees, appraisor fees, and  
7 related costs in collecting such proceeds) to be applied by  
8 second party toward the payment of the sums secured by this  
9 contract. Second party shall keep first party notified in writing  
10 of any such taking and of the net amount of such proceeds, first  
11 party shall, within ten days after such notification, notify second  
12 party in writing of first party's election to have such proceeds  
13 applied to said sums secured by this contract or shall be  
14 conclusively deemed to have elected not to require second party  
15 to apply said proceeds as provided herein. If first party elects  
16 to require second party to apply said proceeds toward payment of  
17 the sums secured by this contract, said application shall be first  
18 to payment of accrued interest to date of application and secondly  
19 to payment of principal. Any sale in the face of a threat of  
20 eminent domain shall be the same as a taking by eminent domain.

21 If second party shall sell said real property described  
22 herein and securing the unpaid balance of this contract, first  
23 party may elect to permit the subsequent purchaser to assume the  
24 balance of second party's obligation secured hereby, or to demand  
25 the then unpaid balance of principal and interest from second  
26 party, or the transferee of said second party, at the option of  
27 first party. This clause cannot be waived unless second party  
28 gives first party written notice of such sale in writing and first  
29 party thereafter accepts a payment from the subsequent purchaser  
30 with knowledge of the transfer.

31 The true and actual consideration paid for this transfer,  
32 stated in terms of dollars, is \$42,500.00.

5. CONTRACT

1 And in case suit or action is instituted to foreclose this  
2 contract or to enforce any of the provisions thereof, second party  
3 agrees to pay such sum as the trial court may adjudge reasonable  
4 as attorney's fees to be allowed plaintiff in said suit or action,  
5 and if an appeal is taken from any judgment or decree of such  
6 trial court, the second party further promises to pay such sum as  
7 the appellate court shall adjudge reasonable as plaintiff's  
8 attorney's fees on such appeal.

9 The second party further agrees that failure by the first  
10 party at any time to require performance by the second party of  
11 any provision hereof shall in no way affect first party's right  
12 hereunder to enforce the same, nor shall any waiver by said first  
13 party of any breach of any provision hereof be held to be a waiver  
14 of any succeeding breach thereof or as a waiver of the provision  
15 itself.

16 In construing this contract, it is understood that the first  
17 party or the second party may be more than one person; that if the  
18 context so requires, the singular pronoun shall be taken to mean  
19 and include the plural, the masculine, the feminine, and the  
20 neuter, and that generally all grammatical changes shall be made,  
21 assumed and implied to make the provisions hereof apply qually to  
22 corporations and to individuals.

23 IN WITNESS WHEREOF, said parties have executed this  
24 instrument in duplicate; if either of the undersigned is a corp-  
25 oration, it has caused its corporate name to be signed and its  
26 corporate seal affixed hereto by its officers duly authorized  
27 thereunto by order of its board of directors.

28 SELLERS:

29 Donald E. Colwell  
30 Donald E. Colwell

31 Barbara D. Colwell  
32 Barbara D. Colwell

BUYER:

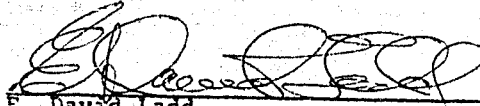
Carmen (Dixie) Diane Ladd  
Carmen (Dixie) Diane Ladd

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For valuable consideration, the receipt of which is hereby acknowledged, I do hereby guarantee unconditionally the payment and faithful performance of the foregoing contractual obligations of Carmen (Dixie) Diane Ladd, as second party, buyer and purchaser therein. I further expressly waive presentment for payment, notice of nonpayment, and protest to any extensions of time of payment guaranteed by me. This guarantee is to remain in full force and effect during the term of said contract and until it is fully paid and performed. It is understood and agreed that there are no conditions or limitations to this understanding and that after execution, no alteration, change or modification shall be made except by writing signed by all the parties hereto, and me.

Dated this 31 day of March, 1972.

  
E. David Ladd

STATE OF OREGON

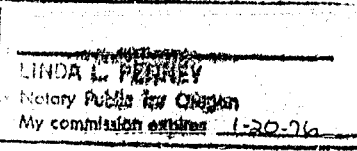
COUNTY OF KLAMATH

} ss.

April 20 1972

Personally appeared the above named Donald E. Colwell and Barbara D. Colwell and E. David Ladd and Carmen (Dixie) Diane Ladd and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:

  
Linda L. Penney  
Notary Public for Oregon  
My commission expires 1-20-76

Linda L. Penney  
Notary Public for Oregon  
My Commission Expires: 1-20-76

STATE OF OREGON, }  
County of Klamath } ss.

Filed for record ~~XXXXXX~~

EXX

on this 25th day of APRIL A. D., 1972  
at 3:23 o'clock P M. and duly  
recorded in Vol. M 72 of DEEDS  
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WM. D. MILNE, County Clerk

By Hayf Drayall  
Fee \$14.00 Deputy.

7. CONTRACT

Return: D. E. Colwell  
P.O. Box 533, Merrill, Ore