

1 THIS CONTRACT OF SALE OF REAL PROPERTY Made this 17th day of
2 August, 1972, between D. N. CLEMENS and EVA L. CLEMENS, husband and
3 wife, as tenants in common, whose address is Rogue Valley Manor, 1200
4 Mira Mar Avenue, Medford, Oregon 97501, hereinafter called Vendor, and
5 ELWOOD E. OWENS and THELMA SUE OWENS, husband and wife, and JAMES PETER
6 OWENS and LAURA OWENS, husband and wife, whose address is 228 Gurnsey
7 Drive, Red Bluff, California,
8 hereinafter called Purchaser;

9 W I T N E S S E T H:

10 Vendor agrees to sell to Purchaser and Purchaser hereby agrees to
11 buy from Vendor, at the price and on the terms, covenants, conditions
12 and provisions hereinafter contained, the following described real pro-
13 perty situate in Klamath County, Oregon, to wit:

14 Township 33 S., R. 7 $\frac{1}{2}$ E., W. M.:

15 Sec. 8: E $\frac{1}{2}$ SE $\frac{1}{4}$

16 Sec. 9: SW $\frac{1}{4}$ and Lots 3 and 4

17 SUBJECT TO: 1972-73 taxes and assessments; terms and condi-
18 tions of special assessment as farm use and the right of the
19 county to additional taxes in the event said use should be
20 changed; easements and rights of way of record and apparent
21 thereon.

22 SPECIAL TERMS, COVENANTS, CONDITIONS AND PROVISIONS.

23 The purchase price of the above described real property, which
24 Purchaser agrees to pay without demand to the Escrow Holder hereinafter
25 named, is the sum of \$110,000.00 payable as follows:

26 (a) \$20,000.00 cash upon execution hereof, receipt of which
27 is hereby acknowledged.

28 (b) \$90,000.00 deferred balance payable as follows:

29 (1) \$5,000.00 inclusive of interest, on May 15 and
30 October 15 of each year, commencing on October 15, 1972,
31 and continuing thereafter until the entire deferred
32 balance, together with interest, has been paid in full.

(2) Interest shall commence upon the date of this contract.

All installments to be paid Vendor by Purchaser shall be inclusive of

1 interest at the rate of six (6%) percent per annum from date hereof.
2 All installments shall be paid without demand to the Escrow Holder
3 hereinafter named and shall be applied first to interest due at the
4 time of payment of any such installment and then to principal.

5 Purchaser may, at any time, without the written consent of
6 Vendor, increase any installment or prepay all or any part of the
7 whole consideration. No partial payment nor increased installment, nor
8 payment for a partial release by reason of a condemnation, shall be
9 credited in lieu of any regular future installment nor excuse Purchaser
10 from making the regular installments specified in this contract. All
11 partial payments, increased installments, or prepayments, shall apply
12 first to interest accrued to the date thereof, and then to principal.

13 Vendor reserves, and Purchaser hereby grants to Vendor, the use
14 and occupancy of the dwellings situate upon the above described real
15 property for the calendar year of 1972, ~~and the calendar year of 1973.~~ *W.C. E.C.C. 750 100 X.C.*
16 Vendor shall be under no obligation to pay rent for the use of said
17 dwellings and shall not be obligated to occupy them continually, nor
18 shall Vendor be obligated to maintain the same. Vendor's right to
19 use and occupy said dwellings shall not be construed as limiting
20 Purchaser's obligation to maintain the same as provided in this
21 contract.

22 The real property above described is presently under lease from
23 Vendor to Purchaser. The parties agree, upon the execution of this
24 agreement, that the lease shall terminate and that the rentals due
25 thereunder shall not be paid by Purchaser to Vendor.

26 That Vendor's warranty of title shall be co-extensive with, but
27 not greater than, the coverage afforded by the title insurance policy
28 hereinafter referred to.

29 That the parties shall not prorate among themselves the real
30 property taxes, fire insurance premiums for existing insurance, irri-
31 gation district assessments and charges or drainage district assess-
32 ments and charges. The recording fees of this contract shall be paid
33 by Purchaser.

Contract of Sale
Page 2

GENERAL TERMS, COVENANTS, CONDITIONS AND PROVISIONS

The real property above described hereby sold to Purchaser includes all and singular, the tenements, hereditaments, rights, easements, privileges and appurtenances thereunto belonging, or in anywise appertaining, improvements thereon, including, but not limited to, pumps, sprinkler systems, pumping stations, motors, engines, reservoirs, pipes and flumes or other equipment now used for the production of water thereon or for the irrigation or drainage thereof, and the reversions, remainders, rents, issues and profits thereof, together with all the rights to the use of water for irrigating said premises and for domestic use thereon to which Vendor is now entitled, or which are now used on said premises, however the same may be evidenced, and together with all shares of stock or shares of water in any ditch or irrigation company which, in any manner, entitles the Vendor water for irrigating or domestic purposes upon said real property. The Vendor's lien created by this contract shall and does hereby include the real property above described, together with all and singular, the tenements, hereditaments, rights, easements, privileges and appurtenances thereunto belonging or in anywise appertaining, and all improvements now or hereafter thereon, including but not limited to, pumps, sprinkler systems, pumping stations, motors, engines, reservoirs, pipes and flumes or other equipment now or hereafter used for the production of water thereon for the irrigation or drainage thereof, and the reversions, remainders, rents, issues and profits thereof, and together with all the rights to the use of water for irrigating said premises and for domestic use thereon to which said real property is now or may hereafter become entitled, or which now are or may hereafter be used on said premises, however the same may be evidenced, and together with all shares of stock or shares of water in any ditch or irrigation company which in any manner entitles the legal or equitable owner thereof to water for irrigating or domestic purposes upon said real property. In addition, Purchaser

1 hereby agrees that the Vendor's lien is superior to any and all rights
2 of Purchaser under and by virtue of any homestead, stay or exemption
3 laws now in force, or which may hereafter become laws and that no
4 timber will be cut from any of the real property subject to said lien.

5 Vendor hereby warrants that he has good and merchantable title
6 to the real property above described, subject to the exceptions above
7 set forth. Vendor will, upon execution hereof, make and execute in
8 favor of Purchaser, a good and sufficient Warranty Deed conveying
9 said premises free and clear as of this date of all encumbrances,
10 subject to the above set forth exceptions, and will place said deed,
11 together with the original of this agreement, and any other conveyances
12 or title or security instruments required hereby in escrow at Klamath
13 Falls Branch of United States National Bank of Oregon with instructions
14 to said Escrow Holder that when and if the Purchaser shall have paid
15 the balance of the purchase money and interest as above specified and
16 shall have complied with all other terms and conditions of this agree-
17 ment, to deliver the same to Purchaser subject to the usual printed
18 conditions and provisions of the standard form of escrow instructions
19 provided by said Escrow Holder.

20 Vendor shall furnish, at his own expense, a Purchaser's Title
21 Insurance Policy issued by Klamath County Title Co. under Order No.
22 22108 insuring Purchaser's title in the above described real pro-
23 perty in the amount of \$110,000.00 subject to the above set forth
24 exceptions and the printed conditions and exceptions contained in
25 the usual form of title policy issued by said title insurance company
26 and shall deposit said policy with the above named Escrow Holder to be
27 held in escrow for delivery to Purchaser along with Vendor's Warranty
28 Deed according to the terms herein specified. Escrow fees and title
29 insurance premiums shall be shared equally between the Vendor and Purchaser.

30 Purchaser shall be entitled to possession of the above described
31 real property on date hereof. Purchaser shall remain in possession
32 so long as Purchaser is not in default hereunder. Purchaser shall

1 and hereby agrees to keep said real property in clean, sanitary,
2 sightly, attractive condition; to commit no waste or otherwise damage
3 or injure said premises; to maintain said premises in accordance with
4 the laws and the ordinances and regulations of any constituted authority
5 applying to said premises and to make up no unlawful use thereof; to
6 pay regularly and seasonably, and before the same shall become delin-
7 quent, all taxes, assessments, and charges of whatever nature (including
8 additional charges by reason of change of use) levied and assessed
9 against said real property. and to pay and discharge all encumbrances
10 thereafter placed thereon by Purchaser; to permit no lien or other
11 encumbrances to be filed upon or placed against said premises without
12 the written consent of Vendor; and it is further understood and agreed
13 for the purposes of this provision that if Purchaser fails to pay or
14 discharge any taxes, assessments, liens, encumbrances, or charges,
15 Vendor, at his option and without waiver of default or breach of
16 Purchaser, and without being obliged to do so, may pay or discharge
17 all or any part thereof all of which said sums so paid by Vendor shall
18 become repayable by Purchaser, together with interest at the rate of
19 ten (10%) percent per annum, upon demand, payment of which is part of
20 the performance of this agreement by Purchaser and a condition precedent
21 to delivery of the Warranty Deed and other documents by the Escrow Holder.

22 Purchaser agrees to keep the buildings now on or hereafter placed
23 upon the above described real property insured against loss by fire
24 or other casualty in an amount not less than total insurable value
25 total insurance and shall obtain, at his own expense, said insurance
26 in the name of Vendor as the primary insured with an endorsement
27 thereon providing for loss payable to Vendor and Purchaser as
28 their respective interests may appear. The policy or policies
29 of insurance shall be delivered to Vendor, or, in lieu thereof, a
30 certificate of such insurance may be provided by Purchaser and
31 delivered to Vendor. If a loss should occur for which insurance
32 proceeds shall become payable, the Purchaser may elect to either

Contract of Sale

1 rebuild or repair the portion of the building so destroyed, or apply
2 the proceeds to payment of the then unpaid balance of the purchase
3 money. If the Purchaser elects to rebuild, he shall sign such
4 documents as may be necessary to guarantee the application of the
5 insurance proceeds to the cost of such rebuilding or repair. If
6 the Purchaser elects to apply the insurance proceeds toward payment
7 on this contract, any amount received by Vendor under any such
8 insurance in payment of a loss shall be applied upon the unpaid
9 principal balance of the purchase price and shall reduce said unpaid
10 principal balance to the extent of the amount of the insurance
11 payment received by Vendor.

12 In the event any governmental agency or entity having the
13 power of eminent domain acquires by eminent domain, or by negotiated
14 sale in lieu of eminent domain, all, or any portion, of the real
15 property described in this contract, Vendor may require Purchaser
16 to apply all proceeds received by Purchaser from such acquisition
17 (remaining after payment by Purchaser of attorney fees, appraiser's
18 fees, and related costs in connection with such acquisition) to
19 be applied by Purchaser toward the payment of the sums secured by
20 this contract. Upon receipt of funds, Purchaser shall notify Vendor
21 of the net amount of proceeds so received, and, within ten days
22 after such notification, Vendor shall notify Purchaser in writing
23 of Vendor's election to have such proceeds applied to the sums
24 secured by this contract or shall be conclusively deemed to have
25 elected not to require Purchaser to apply such proceeds toward the
26 sums secured by this contract. Such application shall be applied
27 first to payment of accrued interest to the date of application and
28 second to payment of principal. It is further understood and agreed
29 that regardless of whether such sums are applied to the sums secured
30 by this contract, Vendor will join in any conveyance required by
31 the governmental agency or entity acquiring a portion or all of the
32 real property described herein by eminent domain, but shall not be

1 required to convey more property than that which is acquired by such
2 governmental agency or entity. Any notice or notices required to be
3 given by Purchaser to Vendor pursuant hereto shall be in writing,
4 and shall be deemed given when the same is deposited in the United
5 States mail, as certified mail, postage prepaid, addressed to
6 Vendor at the last address of Vendor shown on the records of the
7 Escrow Holder.

8 If Purchaser shall sell said real property described herein
9 and securing the unpaid balance of this contract, Vendor may elect
10 to permit the subsequent Purchaser to assume the balance of Purchaser's
11 obligation secured hereby, or to demand the then unpaid balance of
12 principal and interest from Purchaser, or the transferee of said
13 Purchaser, or both, at the option of Vendor. This clause cannot be
14 waived, unless Purchaser gives Vendor notice of such sale in writing
15 and Vendor, after receipt of such written notice, accepts a payment
16 from the subsequent Purchaser. The written notice provided for
17 herein shall be deemed given when the same is deposited in the United
18 States mail as Certified Mail, addressed to the last address of
19 Vendor shown on the records of the Escrow Holder.

20 Vendor may appear in or defend any action or proceeding at law,
21 in equity, or in bankruptcy, affecting in any way the security hereof,
22 and in such event, Vendor shall be allowed and paid, and Purchaser
23 hereby agrees to pay, all costs, charges and expenses, including
24 costs of evidence of title or validity and priority of the security
25 and attorney's fees in a reasonable sum, incurred in any such action
26 or proceeding in which Vendor may appear, which shall bear interest
27 at 10% from date of demand therefor. Failure of Purchaser to pay
28 Vendor for such costs, charges, and expenses within 90 days from
29 date of demand therefor shall constitute a breach of this contract.

30 If Purchaser shall fail to perform any of the terms of this
31 agreement, time of payment and performance being of the essence,
32 Vendor shall, at his option, subject to the requirements of notice

1 as herein provided, have the following rights:

2 (a) To foreclose this contract by strict foreclosure
3 in equity;

4 (b) To declare the full unpaid balance of the purchase
5 price immediately due and payable;

6 (c) To specifically enforce the terms of this
7 agreement by suit in equity; and

8 (d) To declare this agreement null and void as of the
9 date of the breach and to retain as liquidated damages the
10 amount of the payments heretofore made upon said premises.
11 Under option (d) all of the rights, title and interest of
12 Purchaser shall revert and revest in Vendor without any act
13 of re-entry or without any other act by Vendor to be performed,
14 and Purchaser agrees to peaceably surrender the premises to
15 Vendor, or in default thereof, Purchaser may, at the option
16 of Vendor, be treated as a tenant holding over unlawfully
17 after the expiration of a lease and may be ousted and removed
18 as such.

19 Purchaser shall not be deemed in default for failure to perform
20 any covenant or condition of this contract, other than the failure
21 to make payments as provided for herein, until notice of said default
22 has been given by Vendor to Purchaser and Purchaser shall have
23 failed to remedy said default within 30 days after the giving of the
24 notice.

25 If Purchaser shall fail to make payments as herein provided
26 and said failure shall continue for more than 30 days after the
27 payment becomes due, Purchaser shall be deemed to be in default and
28 Vendor shall not be obligated to give notice to Purchaser of a
29 declaration of said default.

30 Where notice in writing is required by Vendor to the Purchaser,
31 such notice shall be deemed given when the same is deposited in
32 the United States mail as Registered Mail, addressed to the address
of Purchaser shown at the beginning of this agreement.

No waiver by Vendor of any breach of any covenant of this
agreement shall be construed as a continuing waiver of any subsequent
breach of such covenant nor as a waiver of any breach of any other
covenant nor as a waiver of the covenant itself.

In the event any suit or action is commenced to foreclose this

1 contract, the court having jurisdiction of the case may, upon motion
2 by Vendor, appoint a receiver to collect the rents and profits arising
3 out of the above described real property and to take possession,
4 management and control of the same during pendency of such foreclosure
5 proceeding or until payment of the obligations hereby secured, and
6 apply said rents and profits to the payment of the amount due hereunder,
7 first deducting all proper charges and expenses attending the
8 execution of said receivership.

9 Upon the commencement of any suit or action to collect the
10 indebtedness or disbursements, secured hereby, or any part thereof,
11 or to enforce any provision of this contract by specific performance,
12 foreclosure, or otherwise, there shall become due, and Purchaser
13 agrees to pay to Vendor, in addition to all statutory costs and
14 disbursements, any amount Vendor may incur or pay for any title re-
15 port, title search, insurance of title, or other evidence of title
16 subsequent to the date of this contract on any of the real property
17 above described and this contract shall be security for the payment
18 thereof.

19 In the event any suit or action is instituted to collect the
20 indebtedness or disbursements secured hereby, or any part thereof,
21 or to enforce any provision of this contract by specific performance,
22 or foreclosure, or otherwise, the prevailing party, at trial, or on
23 appeal, shall be entitled to such reasonable attorney's fees as
24 shall be fixed by the court having jurisdiction of the case, in
25 addition to statutory costs and disbursements.

26 This agreement contains the full understanding of the parties
27 with respect to the subject hereof and no modification hereof shall
28 be given effect unless the same be in writing subscribed by the
29 parties hereto or their successors in interest.

30 This agreement shall bind and inure to the benefit of, as the
31 circumstances may require, the parties hereto, and their respective
32 successors, heirs, executors, administrators and assigns.

1 In construing this agreement, the singular shall include both
 2 the singular and the plural and the masculine both the masculine
 3 and feminine.

4 D. N. Clemens
 5 D. N. Clemens

6 Eva L. Clemens
 7 Eva L. Clemens

Vendor

8 Elwood E. Owens
 9 Elwood E. Owens

10 Thelma Sue Owens
 11 Thelma Sue Owens

12 James Peter Owens
 13 James Peter Owens

14 Laura Owens
 15 Laura Owens

Purchaser

16 STATE OF Oregon)
 17 COUNTY OF Clatsop) ss.

18 On the 17th day of August, 1972, personally appeared the above
 19 named D. N. CLEMENS and EVA L. CLEMENS, husband and wife, and acknow-
 20 ledged the foregoing instrument to be their voluntary act and deed.

Before me:

(SEAL)

21 Alma [Signature]
 22 Notary Public for Oregon

My commission expires: April 8, 1976

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

STATE OF Oregon }
COUNTY OF Klamath } ss.

On the 17th day of August, 1972, personally appeared the
above named ELWOOD E. OWENS and THELMA SUE OWENS, husband and wife, and
JAMES PETER OWENS and LAURA OWENS, husband and wife, and acknowledged
the foregoing instrument to be their voluntary act and deed.

Before me:

(SEAL)

Alvin C. Brown
Notary Public for Oregon
My commission expires April 18, 1976

STATE OF OREGON; COUNTY OF KLAMATH; ss.
Filed for record at request of J. A. Giacomini
this 25 day of Aug A. D. 1972 at 3:47 o'clock P.M. and
duly recorded in Vol. M-72, of Deeds on Page # 9561
Wm D. MILNE, County Clerk
By Hazel Drayton

Fee 22.00