

1 THIS CONTRACT OF SALE of real property made this 14th day
2 of December, 1972, between JERRY AHERN and MADGE AHERN,
3 husband and wife, hereinafter called "Vendor", and WILLIAM W. KEYT
4 and JUNE L. KEYT, husband and wife, as tenants in common and not as
5 tenants by the entirety, hereinafter called "Purchaser";

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

7 Vendor agrees to sell to Purchaser and Purchaser hereby agrees
8 to buy from Vendor, at the price and on the terms, covenants, condi-
9 tions and provisions hereinafter contained, all of the following
10 described property situate in the County of Klamath, State of Oregon,
11 more particularly described as follows:

12 The real property described in Exhibit "A" attached hereto
13 and thereby made a part hereof as though fully set forth
14 hereat,

15 SUBJECT TO: The exceptions set forth in Exhibit "A".

16 SPECIAL TERMS, COVENANTS, CONDITIONS AND PROVISIONS

17 The purchase price for said real property which Purchaser agrees
18 to pay to the order of Vendor at the office of the Escrow Holder herein
19 named is \$115,000.00, hereinafter called "Deferred Balance", in annual
20 installments of not less than \$9,583.33, plus interest, the first such
21 installment to be paid on the 1st day of December, 1973, and a like
22 installment on the 1st day of December of each year thereafter until
23 the full sum of principal and interest is paid. The deferred balance
24 shall bear interest at the rate of six (6%) percent per annum from
25 the date of this contract and shall be computed on the declining
26 balances of the deferred balance.

27 All installments to Vendor by Purchaser shall be paid without
28 demand to the Escrow Holder hereinafter named and shall be applied
29 first to interest due at the time of the receipt of any such install-
30 ment by the Escrow Holder and then to principal. All partial payments,
31 increased installments, or prepayments permitted hereby shall also be
32 applied first to interest accrued to the date the same is received by
the Escrow Holder and then to the principal.

1 After May 31, 1973, Purchaser shall have the privilege of
2 increasing any annual installment or pay off in full the entire
3 deferred balance of the purchase price together with interest due
4 thereon to the date of payment.

5 In executing, delivering and accepting this contract, it is
6 mutually agreed by the parties hereto that, so long as no default
7 by Purchaser shall occur in any of the terms, conditions, provisions
8 and covenants of this contract to be performed by Purchaser, Purchaser
9 shall be entitled to demand and receive, and Vendor shall, within a
10 reasonable time after demand, furnish partial conveyances of the real
11 property described herein as follows:

12 (a) The first area to be so conveyed shall be Parcel B.
13 Vendor shall not be required to give any conveyance of
14 Parcels C, D, E, F, G, H, I and J from the lien of this
15 contract, until all of Parcel B shall be conveyed from
16 this contract. The price for the conveyance of Parcel B
17 shall be \$12,000.00.

18 (b) The second area to be so conveyed shall be Parcel C.
19 Vendor shall not be required to give any conveyance of
20 Parcels D, E, F, G, H, I and J from the lien of this
21 contract, until all of Parcel C shall be conveyed from
22 this contract. The price for the conveyance of Parcel C
23 shall be \$12,000.00.

24 (c) The third area to be so conveyed shall be Parcel D.
25 Vendor shall not be required to give any conveyance of
26 Parcels E, F, G, H, I and J from the lien of this contract,
27 until all of Parcel D shall be conveyed from this contract.
28 The price for the conveyance of Parcel D shall be \$8,000.00.
29 The conveyance of Parcel D shall reserve an easement to the
30 remaining Parcels F, G, H, and J of not less than 60 feet
31 wide.

32 (d) The fourth area to be so conveyed shall be Parcel E.
Vendor shall not be required to give any conveyance of
Parcels F, G, H, I and J from the lien of this contract,
until all of Parcel E shall be conveyed from this contract.
The price for the conveyance of Parcel E shall be \$8,000.00.

(e) The fifth area to be so conveyed shall be Parcel F.
Vendor shall not be required to give any conveyance of
Parcels G, H, I and J from the lien of this contract,
until all of Parcel F shall be conveyed from this contract.
The price for the conveyance of Parcel F shall be \$12,000.00.
The conveyance of Parcel F shall reserve an easement to the
remaining Parcels G, H and J of not less than 60 feet wide.

(f) The sixth area to be so conveyed shall be Parcel G.
Vendor shall not be required to give any conveyance of
Parcels H, I and J from the lien of this contract, until
all of Parcel G shall be conveyed from this contract.

1 of any payment for a partial conveyance, nor the giving of a partial
2 conveyance as provided for herein, nor otherwise, shall affect the
3 liability of Purchaser, nor the lien of this contract, on the remainder
4 of the property herein described for the full amount of all sums
5 remaining due, or to become due, Vendor secured by this contract.
6 The cost of preparing and executing any partial conveyance provided
7 for herein shall be borne and paid by Purchaser. The term "cost",
8 as used in this portion of this contract, shall mean and include,
9 but shall not be limited to, expenses relating to surveying,
10 engineering, title company charges and legal fees. No partial con-
11 veyance shall be demanded nor given until after May 31, 1973.

12 The provisions of the immediately preceding paragraph of this
13 agreement shall not be construed as subdividing any of the real pro-
14 perty described herein into parcels or lots. Neither shall the same
15 be construed as requiring either party to subdivide any of the real
16 property described herein into parcels or lots, nor as requiring
17 either party to construct on the real property described herein any
18 improvements of any kind. It is expressly understood and agreed that
19 the undertaking of any subdivision of any of the real property des-
20 cribed herein into parcels or lots, or the making of any improvements
21 thereon, shall be at the full risk and the expense of Purchaser.
22 Purchaser acknowledges that he has entered into this contract sub-
23 ject to state and federal laws and regulations relating to the sub-
24 division and sale of real property by parcels or lots and assumes
25 and agrees to be bound by such state and federal laws and regulations
26 relating to such activity. Purchaser agrees to assume and pay, and
27 hold Vendor harmless from, any expenses or obligations incurred as
28 a consequence of, or connected with, any subdivision activity,
29 including, but not limited to, any additional sums due to Klamath
30 County for deferred real property taxes by reason of a change from
31 farm use to nonfarm use.

32 Purchaser has made an independent investigation and inspection

1 of the real property herein described and has entered into this con-
2 tract without relying on any statement or representation or covenant
3 not specifically embodied in this contract, and accepts the property
4 described in this agreement as is, in its present condition, and
5 requires no work of any kind to be done on said property by Vendor.

6 Purchaser shall be entitled to possession of the above described
7 real property on the date hereof.

8 GENERAL TERMS, COVENANTS, CONDITIONS AND PROVISIONS

9 The real property above described hereby sold to Purchaser
10 includes, all and singular, the tenements, hereditaments, rights,
11 easements, privileges and appurtenances thereunto belonging, buildings,
12 fixtures thereon, including, but not limited to, stationary pumps,
13 pumping stations, motors, engines, reservoirs, nonportable pipes
14 and flumes or other nonportable equipment not used for the produc-
15 tion of water thereon or for the irrigation or drainage thereof,
16 and the reversion, remainders, rents, issues and profits thereof,
17 together with all rights to the use of water for irrigating said
18 premises and for domestic use thereon to which Vendor is now entitled,
19 or which are now used on said premises, however the same may be evi-
20 denced, and together with all shares of stock or shares of water in
21 any ditch or irrigation company which, in any manner, entitles the
22 Vendor water for irrigating or domestic purposes upon said real pro-
23 perty. The Vendor's lien created by this contract shall and does
24 hereby include the real property above described, together with, all
25 and singular, the tenements, hereditaments, rights, easements,
26 privileges and appurtenances thereunto belonging, buildings and
27 all fixtures now or hereafter thereon, including, but not limited
28 to, stationary pumps, pumping stations, motors, engines, reservoirs,
29 nonportable pipes and flumes or other nonportable equipment now or
30 hereafter used for the production of water thereon for the irrigation
31 or drainage thereof, and the reversions, remainders, rents, issues and
32 profits thereof, and together with all the rights to the use of water

Contract of Sale
Page 5

1 for irrigating said premises and for domestic use thereon to which
2 said real property is now or may hereafter become entitled, or which
3 now are or may hereafter be used on said premises, however the same
4 may be evidenced, and together with all shares of stock or shares of
5 water in any ditch or irrigation company which in any manner entitles
6 the legal or equitable owner thereof to water for irrigating or domes-
7 tic purposes upon said real property. In addition, Purchaser hereby
8 agrees that the Vendor's lien is superior to any and all rights of
9 Purchaser under and by virtue of any homestead, stay or exemption
10 laws now in force, or which may hereafter become laws and that no
11 timber will be cut from any of the real property subject to said lien.

12 Vendor hereby warrants that he has good and merchantable title
13 to the real property above described, subject to the exceptions above
14 set forth. Vendor will, upon execution hereof, make and execute in
15 favor of Purchaser, a good and sufficient Warranty Deed conveying
16 said premises free and clear as of this date of all encumbrances,
17 subject to the above set forth exceptions, and will place said deed,
18 together with the original of this agreement, and any other convey-
19 ances or title or security instruments required hereby in escrow at
20 Klamath County Title Co., 422 Main Street, Klamath Falls, Oregon
21 97601, with instructions to said Escrow Holder that when and if the
22 Purchaser shall have paid the balance of the purchase money and
23 interest as above specified and shall have complied with all other
24 terms and conditions of this agreement, to deliver the same to
25 Purchaser subject to the usual printed conditions and provisions
26 of the standard form of escrow instructions provided by said Escrow
27 Holder.

28 Vendor shall furnish, at his own expense, a Purchasers' Title
29 Insurance Policy issued by Klamath County Title Co. under Order No.
30 A-22124 insuring Purchaser's title in the above described real prop-
31 erty in the amount of \$115,000.00 subject to the above set forth
32 exceptions and the printed conditions and exceptions contained in
Contract of Sale
Page 6

1 the usual form of title policy issued by said title insurance company
2 and shall deposit said policy with the above named Escrow Holder to be
3 held in escrow for delivery to Purchaser along with Vendor's Warranty
4 Deed according to the terms specified herein.

5 Purchaser shall be entitled to possession of the above described
6 real property on date hereof. Purchaser shall remain in possession so
7 long as Purchaser is not in default hereunder. Purchaser shall and
8 hereby agrees to keep said real property in clean, sanitary, sightly,
9 attractive condition; to commit no waste or otherwise damage or
10 injure said premises; to maintain said premises in accordance with
11 the laws and the ordinances and regulations of any constituted
12 authority applying to said premises and to make up no unlawful use
13 thereof; to pay regularly and seasonably, and before the same shall
14 become delinquent, all taxes, assessments and charges of whatever
15 nature (including additional charges by reason of change of use)
16 levied and assessed against said real property and to pay and dis-
17 charge all encumbrances thereafter placed thereon by Purchaser; to
18 permit no lien or other encumbrances to be filed upon or placed
19 against said premises without the written consent of Vendor; and it
20 is further understood and agreed for the purposes of this provision
21 that if Purchaser fails to pay or discharge any taxes, assessments,
22 liens, encumbrances, or charges, Vendor, at his option and without
23 waiver of default or breach of Purchaser, and without being obliged
24 to do so, may pay or discharge all or any part thereof all of which
25 said sums so paid by Vendor shall become repayable by Purchaser,
26 together with interest at the rate of ten (10%) percent per annum,
27 upon demand, payment of which is part of the performance of this
28 agreement by Purchaser and a condition precedent to delivery of the
29 warranty deed and other documents by the Escrow Holder.

30 In the event any governmental agency or entity having the power of
31 eminent domain acquires by eminent domain, all, or any portion, of the
32 real property described in this contract, Vendor may require Purchaser

1 to apply all proceeds received by Purchaser from such acquisition
2 (remaining after payment by Purchaser of attorney fees, appraiser
3 fees and related necessary and reasonable costs in connection with
4 securing said proceeds) which proceeds are hereinafter called "net
5 proceeds" toward the payment of the sums secured by this contract.
6 Upon receipt of said net proceeds, Purchaser shall notify Vendor of
7 the amount of said net proceeds and Vendor shall, within ten (10)
8 days after such notification, notify Purchaser in writing if Vendor
9 elects to have said net proceeds applied toward payment of the sums
10 secured by this contract. If Vendor fails to so notify Purchaser
11 of such election, Vendor shall conclusively be deemed to have
12 elected not to require Purchaser to apply said net proceeds toward
13 the sums secured by this contract. If Vendor elects to have said
14 net proceeds applied toward payment toward the sums secured by this
15 contract, the amount to be received by Vendor shall not exceed the
16 total of the principal plus accrued interest to the date of receipt
17 thereof by Vendor, and all such sums shall be paid to the Escrow
18 Holder named herein. Regardless of whether Vendor elects to have
19 said net proceeds applied to the sums secured by this contract,
20 Vendor will join in any conveyance required by the governmental
21 agency or entity acquiring a portion or all of the real property
22 described herein by eminent domain, but Vendor shall not be
23 required to partially convey more property than that which is
24 acquired by such governmental agency or entity. Vendor shall not
25 be obligated to participate in any negotiations with such govern-
26 mental agency or entity. Any notice or notices required to be given
27 by Purchaser to Vendor pursuant hereto shall be in writing, and shall
28 be deemed given when the same is deposited in the United States mail,
29 as certified mail, postage prepaid, addressed to Vendor at the last
30 address of Vendor shown on the records of the Escrow Holder.

31 If Purchaser shall sell said real property described herein and
32 securing the unpaid balance of this contract, Vendor may elect to

1 permit the subsequent Purchaser to assume the balance of Purchaser's
2 obligation secured hereby, or to demand the then unpaid balance of
3 principal and interest from Purchaser, or the transferee of said
4 Purchaser, or both, at the option of Vendor. This clause cannot
5 be waived, unless Purchaser gives Vendor notice of such sale in
6 writing and Vendor, after receipt of such written notice, accepts
7 a payment from the subsequent Purchaser. The written notice pro-
8 vided for herein shall be deemed given when the same is deposited
9 in the United States mail as registered mail, addressed to the last
10 address of Vendor shown on the records of the Escrow Holder.

11 Vendor may appear in or defend any action or proceeding at law,
12 in equity, or in bankruptcy, affecting in any way the security hereof,
13 and in such event, Vendor shall be allowed and paid, and Purchaser
14 hereby agrees to pay, all costs, charges and expenses, including
15 costs of evidence of title or validity and priority of the security
16 and attorney fees in a reasonable sum, incurred in any such action
17 or proceeding in which Vendor may appear, which shall bear interest
18 at ten (10%) percent from date of demand therefor. Failure of
19 Purchaser to pay Vendor for such costs, charges and expenses within
20 90 days from date of demand therefor shall constitute a breach of
21 this contract.

22 If Purchaser shall fail to perform any of the terms of this agree-
23 ment, time of payment and performance being of the essence, Vendor
24 shall, at his option, subject to the requirements of notice as
25 herein provided, have the following rights:

- 26 (a) To foreclose this contract by strict foreclosure
in equity;
27 (b) To declare the full unpaid balance of the purchase
price immediately due and payable;
28 (c) To specifically enforce the terms of this agreement
29 by suit in equity; and
30 (d) To declare this agreement null and void as of the
31 date of the breach and to retain as liquidated damages the
32 amount of the payments heretofore made upon said premises.
Under Option (d) all of the rights, title and interest of

1 Purchaser shall revert and re-vest in Vendor without any act
2 of re-entry or without any other act by Vendor to be per-
3 formed, and Purchaser agrees to peaceably surrender the pre-
4 mises to Vendor, or in default thereof, Purchaser may, at
5 the option of Vendor, be treated as a tenant holding over
6 unlawfully after the expiration of a lease and may be ousted
7 and removed as such.

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

13 If Purchaser shall fail to make payments as herein provided
14 and said failure shall continue for more than 30 days after the pay-
15 ment becomes due, Purchaser shall be deemed to be in default and
16 Vendor shall not be obligated to give notice to Purchaser of a
17 declaration of said default.

18 Where notice in writing is required by Vendor to the Purchaser,
19 such notice shall be deemed given when the same is deposited in the
20 United States mail as registered mail, addressed to the last address
21 of Purchaser shown on the records of the Escrow Holder.

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

26 In the event any suit or action is commenced to foreclose this
27 contract, the court having jurisdiction of the case may, upon motion
28 by Vendor, appoint a receiver to collect the rents and profits arising
29 out of the above described real property and to take possession,
30 management and control of the same during pendency of such foreclosure
31 proceeding or until payment of the obligations hereby secured, and
32 apply said rents and profits to the payment of the amount due here-
under, first deducting all proper charges and expenses attending
the execution of said receivership.

Upon the commencement of any suit or action to collect the

1 indebtedness or disbursements, secured hereby, or any part thereof,
2 or to enforce any provision of this contract by specific performance,
3 foreclosure, or otherwise, there shall become due, and Purchaser agrees
4 to pay to Vendor, in addition to all statutory costs and disbursements,
5 any amount Vendor may incur or pay for any title report, title search,
6 insurance of title, or other evidence of title subsequent to the date
7 of this contract on any of the real property above described and this
8 contract shall be security for the payment thereof.

9 In the event any suit or action is instituted 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 or foreclosure, or otherwise, the prevailing party, at trial or on
13 appeal, shall be entitled to such attorney fees as shall be fixed by
14 the court having jurisdiction of the case, in addition to statutory
15 costs and disbursements.

16 Upon delivery of any partial conveyance from Vendor to Purchaser,
17 as provided herein, and the payment of the full consideration therefor,
18 the terms, covenants, conditions and provisions of this contract shall
19 not extend to, nor be binding upon, the real property conveyed by such
20 partial conveyance.

21 This agreement contains the full understanding of the parties with
22 respect to the subject hereof and no modifications hereof shall be given
23 effect unless the same be in writing subscribed by the parties hereto or
24 their successors in interest.

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

28 In construing this agreement, the singular shall include both
29 the singular and the plural and the masculine both the masculine and
30 the feminine.

31
32 
Jerry Ahern

14504

Madge Ahern
Madge Ahern Vendor

William W. Keyt
William W. Keyt

June L. Keyt
June L. Keyt Purchaser

STATE OF OREGON }
COUNTY OF KLAMATH } ss.

On the 4th day of December, 1972, personally appeared the above named Jerry Ahern and Madge Ahern, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:

Alameda E. Giacomini
Notary Public for Oregon
My commission expires: Aug 5, 1974

STATE OF Oregon }
COUNTY OF Klamath } ss.

On the 14th day of December, 1972, personally appeared the above named William W. Keyt and ~~June L. Keyt~~, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:

Darle Runnels
Notary Public for
My commission expires: 9/23/73

Ret: Klamath Co Title
2664

Contract of Sale
Page 12

EXHIBIT "A"

Parcel B:

Township 40 South, Range 12 E.W.M.
Section 19: SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{4}$ SE $\frac{1}{4}$

Parcel C:

Township 40 South, Range 12 E.W.M.
Section 19: S $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ and Government Lot 4

PARCEL D:

Township 40 South, Range 12 E.W.M.
Section 30: N $\frac{1}{4}$ NE $\frac{1}{4}$

PARCEL E:

Township 40 South, Range 11 E.W.M.
Section 24: SE $\frac{1}{4}$ NE $\frac{1}{4}$ and that portion of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ lying East of the
Malin-Bonanza Highway
Township 40 South, Range 12 E.W.M.
Section 30: NE $\frac{1}{4}$ NW $\frac{1}{4}$ and Government Lot 1

PARCEL F:

Township 40 South, Range 12 E.W.M.
Section 20: W $\frac{1}{4}$ SW $\frac{1}{4}$
Section 29: NW $\frac{1}{4}$ NW $\frac{1}{4}$

PARCEL G:

Township 40 South, Range 12 E.W.M.
Section 20: E $\frac{1}{4}$ SW $\frac{1}{4}$
Section 29: NE $\frac{1}{4}$ NW $\frac{1}{4}$

PARCEL H:

Township 40 South, Range 12 E.W.M.
Section 20: SW $\frac{1}{4}$ SE $\frac{1}{4}$
Section 29: N $\frac{1}{4}$ NE $\frac{1}{4}$

PARCEL I:

Township 40 South, Range 11 E.W.M.
Section 24: NE $\frac{1}{4}$ SE $\frac{1}{4}$ and that portion of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ lying East of the
Malin-Bonanza Highway
Township 40 South, Range 12 E.W.M.
Section 30: SE $\frac{1}{4}$ NW $\frac{1}{4}$ and Government Lot 2

PARCEL J:

Township 40 South, Range 11 E.W.M.
Section 24: That portion of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ lying East of the county road
Township 40 South, Range 12 E.W.M.
Section 20: SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$
Section 28: NW $\frac{1}{4}$ NW $\frac{1}{4}$
Section 29: S $\frac{1}{4}$ N $\frac{1}{4}$, N $\frac{1}{4}$ S $\frac{1}{4}$
Section 30: S $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{4}$ SW $\frac{1}{4}$, Government Lot 3, N $\frac{1}{4}$ SE $\frac{1}{4}$, and that portion of
of Government Lot 4 lying North of the Malin-Bonanza Highway

SUBJECT TO: 1972-1973 taxes and assessments; terms and conditions of special assessments as farm use and the right of the County to additional taxes in the event said use should be changed, which obligation Purchaser assumes and agrees to pay and perform; easements and rights of way of record and apparent thereon; and reservations and restrictions contained in deed recorded in Volume 184, page 133, Deed Records of Klamath County, Oregon, affecting Parcel B.

STATE OF OREGON, COUNTY OF KLAMATH, ss.

Filed for record at request of KLAMATH COUNTY TITLE CO.

this 18th day of December A. D., 1972 at 11:18 o'clock AM. and duly recorded in

Vol. M 72, of INDEX on Page 111493

FFE \$ 26.00

WM. D. MILLER, County Clerk

By Heidi D. Miller