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UNTIL A CHANGE IS REQUESTED, all tax statements shall be sent to the following address: Roger L. Taylor, 5550 Upper River Rd., G.P.

ESCROW CONTRACT

THIS AGREEMENT, Made and entered into this 10 day of November, 1974, by and between Harry D. McKenty and Beatrice A. McKenty, husband and wife, hereinafter called SELLER, and Roger L. Taylor and Gerd S. Taylor, husband and wife, as to an undivided one-half interest and Lawrence B. Miller and Rosemary Miller, husband and wife, as to an undivided one-half interest; hereinafter called BUYER,

W I T N E S S E T H:

That in consideration of the mutual covenants of the parties and for the purchase price reserved, it is agreed as follows:

1. PROPERTY: SELLER agrees to sell and BUYER agrees to purchase the following real property situated in Klamath County, Oregon.

Lot 160 of THIRD ADDITION TO SPORTSMAN PARK, according to the Official plat thereof on file in the office of the County Clerk, Klamath County, Oregon.

together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

2. PURCHASE PRICE: The purchase price reserved and which BUYER agrees to pay is Eight Thousand Dollars (\$8,000.00) payable as follows:

- a. One Thousand Seven Hundred Fifty and no/100 Dollars (\$1,750.00) representing the price for furniture, heretofore paid as earnest money, receipt of which is hereby acknowledged;
- b. The balance of Six Thousand Two Hundred Fifty Dollars (\$6,250.00) to be paid in monthly installments of One Hundred Dollars (\$100.00) each, commencing on the 15th day of January, 1975, and continuing on the 15th day of each month thereafter until the full sum of principal and interest is paid. The unpaid balance shall bear interest from December 1, 1974, at the rate of six percent (6%) per annum and each installment shall be applied first to the payment of interest and the balance to the reduction of principal. In addition to the foregoing installments BUYER agrees to pay on or before November 1, 1975, the sum of One Thousand Dollars (\$1,000.00), to be applied to the payment of principal.

As long as BUYER is without default, he may at any time reduce the unpaid purchase price by payments in addition to, but without waiver of the minimum installment payments.

All payments of principal and interest shall be made to SELLER at First National Bank of Oregon, Grants Pass Branch, Grants Pass, Oregon,

3. CONVEYANCE: SELLER has concurrently herewith delivered to First National Bank of Oregon, Grants Pass Branch, Grants Pass, Oregon, his duly executed and acknowledged warranty deed conveying said property to BUYER, to be held by said escrow agent as an escrow. Upon completion of this contract, without default, this deed shall be delivered to BUYER, but if BUYER default, it shall be returned to SELLER.

4. TITLE: SELLER's deed shall convey marketable title, free and clear of all liens and encumbrances, except:

- a. Agreement between Herbert Fleishhacker and May Belle Fleishhacker, husband and wife, and the California Oregon Power Company, a corporation, dated January 25, 1924, recorded February 15, 1924, in Deed Volume 63, Page 460, records of Klamath County, Oregon, relative to the raising and/or lowering of the water of Upper Klamath Lake between the elevations of 4137 and 4143.3 feet above sea level.
- b. Agreement between the Klamath Development Co., a corporation, and Herbert Fleishhacker, dated January 1917, recorded August 15, 1917, in Miscellaneous Volume 3, Page 275, records of Klamath County, Oregon, granting "The perpetual right to maintain said pipe line extending from that certain reservoir or water tank situate in the SE 1/4, NW 1/4 of Section 3, Township 36 South, Range 6 E., W.M., approximately 200 feet from the head of Pelican Creek and leading across the NE 1/4 of Section 3 aforesaid and Lot 4 of Section 2, said Township and Range to the lands of said Second party situate in said Lot 4 of Section 2."
- c. Easement, including the terms and provisions thereof, as reserved in deed from Gus G. Johnson and Olive M. Johnson, husband and wife, to Robert Sloan and Peggy M. Sloan, dated February 16, 1948, recorded September 1, 1953, in Deed Volume 262, page 581, records of Klamath County, Oregon as follows: "...also the right to build necessary dike, drainage, and irrigation ditches and locate a pumping plant on the NE 1/4, SW 1/4 of Section 3, Township 36 South, Range 6 E., W.M."
- d. Grant of Right of Way, including the terms and provisions thereof, given by Olive M. Johnson, a widow, to the California Oregon Power Company, a California corporation, dated November 3, 1955, recorded November 8, 1955, in Deed Volume 279, Page 99, records of Klamath County, Oregon.

- e. Reservations and restrictions contained in the dedication of Third addition to Sportsman Park: "...subject to a 10 foot building set back line on the front of all lots and an 8 foot easement along the back of all lots for future sanitary sewers and public utilities, said easement to provide for ingress and egress for maintenance and construction of such utilities, no structure being permitted and any plantings placed upon said easement shall be placed at the risk of the owner."
- f. Reservations and restrictions contained in deed from Robert Sloan and Peggy Sloan to Harry D. McKenty, et al, dated February 28, 1961, recorded October 23, 1968, in Volume M68, Page 9459 records of Klamath County, Oregon, as shown in Exhibit "A" attached.

SELLER shall forthwith furnish at his expense a Purchaser's Policy of Title Insurance in the amount of the total purchase price, showing a marketable title in SELLER subject only to the four usual printed exceptions of the title insurance company, and the items set forth as "a" through "f" of this paragraph.

5. POSSESSION: BUYER shall have possession of the above described property, together with all rents, issues and profits therefrom as of December 1, 1974.
  
6. TAXES: BUYER covenants that he will pay on or before the due dates all taxes and assessments against said property hereafter becoming due or payable. TAXES for the 1974-75 fiscal tax year are to be pro-rated as between SELLER and BUYER herein as of December 1, 1974.
  
7. WASTE; REPAIRS; LIENS; INSURANCE: BUYER covenants and agrees that he will: (a) neither commit nor suffer to be committed any waste upon the premises; (b) keep the premises free and clear from all mechanics' and other liens incurred by or through BUYER that may become a charge against the premises superior to the rights or SELLER's lien of the SELLER; (c) keep the improvements now on or that may be placed upon the premises in good condition and repair; (d) keep all such improvements insured against loss by fire in an amount not less than the unpaid balance of purchase price to the extent such coverage is available, with loss, if any, payable to SELLER as his interest may appear. Said policy or policies shall be deposited with SELLER should he so require.
  
8. IMPROVEMENTS: All improvements placed upon the premises shall remain thereon as continuing and added security to SELLER for payment of the purchase price and any other charges which may accrue hereunder in favor of SELLER, and in the event of foreclosure all such improvements shall become the property of SELLER absolutely and without necessity for accounting for any part thereof and subject to no claim on the part of BUYER.
  
9. LOSS OR DESTRUCTION: No loss or destruction by fire or otherwise of any of the improvements now upon or which may be placed upon said premises, either in whole or in part, shall abrogate this contract, but the same shall continue in full force regardless of any such destruction, BUYER assuming all risk of loss or damage.
  
10. REPRESENTATIONS: No representation as to quality, quantity, or any other physical matter or fact relating to said real property shall be deemed a material representation between the parties hereto unless the same is included in this contract in writing. All other representations of whatsoever nature are agreed to be immaterial and not actionable by or in favor of either party.
  
11. DEFAULT PROVISIONS: All of BUYER's promises and agreements herein contained are conditions of continuance of BUYER's rights hereunder. Time is in all things of the essence of this contract. No forbearance upon the part of the SELLER to exact strict or timely performance of any covenant, payment, condition or other provision upon the part of the BUYER to be performed, or delay in declaring a default or forfeiture shall be deemed to waive time as the essence of this contract, or the self-executing effect thereof upon forfeiture or termination, or require a new time to be

fixed for performance upon default, or waive any rights existing in the SELLER upon such default.

All the provisions herein contained shall apply to and include the heirs, executors, administrators and assigns of each of the parties hereto wherever the context so admits or requires. In the event BUYER fails to make the payments above named, and each and every one of them (including the payment of taxes) within fifteen (15) days of the time specified therefor, or shall fail, for a period of thirty (30) days after having received written notice of any other default hereunder, to remedy said default, the SELLER may:

(a) Elect to declare all of the BUYER's rights hereunder terminated, and upon his doing so, all payments made by the BUYER hereunder and all improvements placed upon the premises shall be forfeited to SELLER as liquidated damages for the use and rental of said premises and the SELLER shall have the right to re-enter and take possession of the property; or

(b) SELLER may declare the entire unpaid balance of purchase price immediately due and payable, fix a time and place for the payment thereof, and in the event the same be not paid as required, SELLER may foreclose by a suit in equity all of the right, title and interest of BUYER; or,

(c) SELLER may declare the entire balance of the purchase price immediately due and payable and if the same is not paid upon demand, may commence an action at law to collect the full amount thereof and all amounts due hereunder; or,

(d) SELLER may sue for specific performance or exercise any other remedy permitted at law or in equity.

In the event of termination by forfeiture or foreclosure the SELLER may at any time after such termination, or by institution of any suit to foreclose, re-enter and take possession of the premises and all of the tenements, hereditaments and appurtenances without being liable for trespass, and all such property shall revert to the SELLER automatically and no right of emblements shall be vested in the BUYER and none of the fixtures shall be removed from the premises but the same shall be deemed to be held and owned by the SELLER. Upon any suit for foreclosure of any equity of redemption that may be vested in the BUYER hereunder, the Court shall, immediately upon the commencement of such suit if required by the SELLER, enter an interlocutory decree granting the SELLER immediate possession of the premises and requiring the Sheriff to place it in such immediate possession and, upon any final decree of foreclosure, shall make such interlocutory decree perpetual.

12. ATTORNEY FEES: In the event suit or action is instituted to foreclose this agreement or to enforce any of the provisions hereof, the prevailing party shall be entitled to reasonable attorney's fees as the same shall be adjudged by the Court in said suit or action and if any appeal is taken from any decision of the trial court, such further sum as may be fixed by the appellate court, as reasonable attorney's fees in the appellate court.

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13. RESCISSION: No election or conduct of the SELLER shall be deemed to constitute a rescission hereof unless expressly so stated.

14. CONSTRUCTION: In construing this contract, it is understood that the SELLER or BUYER may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provision hereof apply equally to corporations and to individuals.

15. SURVIVORSHIP: If SELLERS be husband and wife then the rights of the sellers are the property and for the benefit of the sellers jointly while they are both living and the property and for the benefit of the survivor of them upon the death of either; it being the intention of the sellers that the proceeds of all payments upon the said contract will be the property of the sellers jointly while they both are living and the property of the survivor of them upon the death of either.

16. INTEGRATION: This contract contains and sets forth the entire agreement between the parties and any and all matters, statements or representations not herein set forth and contained are to be deemed immaterial and not a part of the transaction, save and except as same shall be reduced to writing and likewise subscribed by the parties or ratified by them in writing.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals in triplicate the day and year first hereinabove written, and one part hereof deposited with First National Bank of Oregon, Grants Pass Branch, Grants Pass, Oregon, as escrow holder, as and for instructions to said escrow agent hereunder.

Harry D. McKenty  
Harry D. McKenty

Roger L. Taylor  
Roger L. Taylor

Beatrice A. McKenty  
Beatrice A. McKenty

Gerd S. Taylor  
Gerd S. Taylor

Lawrence B. Miller  
Lawrence B. Miller

Rosemary Miller  
Rosemary Miller

SELLER

BUYER

STATE OF OREGON, County of Umatilla ) ss. November 26<sup>th</sup>, 1974  
BEFORE ME PERSONALLY appeared the above named Harry D. McKenty and Beatrice A. McKenty, and acknowledged the foregoing instrument to be their voluntary act and deed.

(SEAL)

Sam F. Smith  
Notary Public for Oregon  
My Commission expires: 6/1/75



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EXHIBIT "A"

BUILDING AND USE RESTRICTIONS

- (1) That grantees will not suffer or permit any unlawful, unsightly or offensive use to be made of said premises nor will they suffer or permit anything to be done thereon which may be or become a nuisance or annoyance to the neighborhood.
- (2) That they will use said premises solely as a residence or summer home site.
- (3) That said premises shall never be subdivided nor shall any less portion than the whole thereof ever be sold, leased or conveyed, and that no buildings except one summer home or residence and the usual and necessary outbuildings thereto shall ever be erected thereon.
- (4) That no building shall ever be erected within 10 feet of any exterior property line.
- (5) That the foregoing covenants are appurtenant to and for the benefit of each and every other lot, part or parcel of land in said Sportsman Park and shall forever run with the land and shall bind the premises herein sold for the benefit of each and every other lot, part or parcel of land in said addition and that these covenants shall be incorporated in each and every deed hereafter executed for the purpose of conveying these premises."

Return to: Schultz, Salisbury & Canale - attys at law  
P.O. Box 378  
H. rants Pass, OR 97526

STATE OF OREGON,  
County of Klamath

Filed for record at request of

KLAMATH COUNTY FILE NO.

on this 13th day of DECEMBER A.D. 19 74.

at 11:50 o'clock A.M. and duly

recorded in Vol. 1174 of DEEDS

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Wm D. MILNE, County Clerk

By *Harold Dray* Deputy

Fee \$ 14.00