

38-11010-E

FORM No. 706 CONTRACT—REAL ESTATE—Monthly Payments.

STEVEN NISS LAW PUBLISHING CO., PORTLAND, OR. 97204

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CONTRACT—REAL ESTATE

Vol. 76 Page 138-1

THIS CONTRACT, Made this 19th day of August, 1976, between

Frank E. McBain, Jr. and Betty J. McBain, husband and wife,
 and Gary J. Terpening and Linda M. Terpening, husband and wife,
 hereinafter called the seller,
 hereinafter called the buyer,

WITNESSETH: That in consideration of the mutual covenants and agreements herein contained, the seller agrees to sell unto the buyer and the buyer agrees to purchase from the seller all of the following described lands and premises situated in Klamath County, State of Oregon, to-wit:
 N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 31, Township 36 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon. TOGETHER WITH (See below *)
 Subject, however, to the following:

1. The rights of the public in and to those portions of the herein described property lying within the limits of public roads and highways, as more specifically set forth in Land Status Reports recorded August 15, 1958 in Book 302 at page 124 and page 126, Deed Records.
2. An easement created by instrument, including the terms and provisions thereof,

Dated : November 30, 1973

Recorded : December 6, 1973 Book: M-73 Page: 15786

In favor of : Pacific Power & Light Co.

For : Electric transmission and distribution line;

* A non-exclusive easement over the following described parcel situate in Klamath County, Oregon: The East 60 feet of Government Lot 2, lying Southerly of State Highway #140 and the East 60 feet of Government Lot 3, and the East 60 feet of the N $\frac{1}{2}$ of Government Lot 4, Section 31, Township 36 South, Range 12 East of the Willamette Meridian; for ingress and egress to and from the subject property; TO HAVE AND TO HOLD the said easement unto the Grantees, their heirs, representatives and assigns forever.

for the sum of Eight Thousand Five Hundred and No/100ths Dollars (\$8,500.00) (hereinafter called the purchase price), on account of which One Thousand Two Hundred and Dollars (\$1,200.00) is paid on the execution hereof (the receipt of which is hereby acknowledged by the seller); the buyer agrees to pay the remainder of said purchase price (to-wit: \$7,300.00) to the order of the seller in monthly payments of not less than EIGHTY-EIGHT AND 57/100ths Dollars (\$88.57) each, or more, prepayment without penalty

payable on the 1st day of each month hereafter beginning with the month of October, 1976, and continuing until said purchase price is fully paid. All of said purchase price may be paid at any time; all deferred balances of said purchase price shall bear interest at the rate of 8% per cent per annum from September 1, 1976 until paid, interest to be paid monthly and being included in the minimum monthly payments above required. Taxes on said premises for the current tax year shall be pro-rated between the parties hereto as of the date of this contract.

The buyer warrants to and covenants with the seller that the real property described in this contract is

(A) primarily for buyer's personal, family, household or agricultural purposes.

(B) for business, commercial, industrial or other purposes other than agricultural purposes.

The buyer shall be entitled to possession of said lands on closing, 1976, and may retain such possession so long as he is not in default under the terms of this contract. The buyer agrees that at all times he will keep the buildings on said premises, now or hereafter erected, in good condition and repair and will not suffer or permit any waste or strip thereof; that he will keep said premises free from mechanic's and all other liens and save the seller harmless therefrom and reimburse seller for all costs and attorney's fees incurred by him in defending against any such liens; that he will pay all taxes levied against said property, as well as all water rents, public charges and municipal liens which hereafter lawfully may be imposed upon said premises, all promptly before the same or any part thereof become past due; that at buyer's expense, he will insure and keep insured all buildings now or hereafter erected on said premises against loss or damage by fire (with extended coverage) in an amount full insurable value in a company or companies satisfactory to the seller, with loss payable first to the seller and then to the buyer as their respective interests may appear and all policies of insurance to be delivered to the seller as soon as insured. Now if the buyer shall fail to pay any such liens, costs, water rents, taxes, or charges or to procure and pay for such insurance, the seller may do so and any payment so made shall be added to and become a part of the debt secured by this contract and shall bear interest at the rate aforesaid, without waiver, however, of any right arising to the seller for buyer's breach of contract.

The seller agrees that at his expense and within 30 days from the date hereof, he will furnish unto buyer a title insurance policy insuring (in an amount equal to said purchase price) marketable title in and to said premises in the seller or to subsequent to the date of this agreement, save and except the usual printed exceptions and the building and other restrictions and easements now of record, if any. Seller also agrees that when said purchase price is fully paid and upon request and upon surrender of this agreement, he will deliver a good and sufficient deed conveying said premises in fee simple unto the buyer, his heirs and assigns, free and clear of encumbrances as of the date hereof and free and clear of all encumbrances since said date placed, permitted or arising by, through or under seller, excepting, however, the said easements and restrictions and the taxes, municipal liens, water rents and public charges so assumed by the buyer and further excepting all liens and encumbrances created by the buyer or his assigns.

(Continued on reverse)

*IMPORTANT NOTICE: Delete, by lining out, whichever phrase and whichever warranty (A) or (B) is not applicable. If warranty (A) is applicable and if the seller is a creditor, as such word is defined in the Truth-in-Lending Act and Regulation Z, the seller MUST comply with the Act and Regulation by making required disclosures; for this purpose, use Steven-Niss Form No. 1308 or similar unless the contract will become a first lien to finance the purchase of a dwelling in which event use Steven-Niss Form No. 1307 or similar.

SELLER'S NAME AND ADDRESS

BUYER'S NAME AND ADDRESS

After recording return to:

Transamerica Title - Susan

NAME, ADDRESS, ZIP

Until a change is requested all the statements shall be sent to the following address:

P. O. Box 113

Bonanza, Or 97623

NAME, ADDRESS, ZIP

SPACE RESERVED
FOR
RECORDER'S USE

STATE OF OREGON,

County of

I certify that the within instrument was received for record on the day of 19

at o'clock M. and recorded in book on page or as file/reel number

Record of Deeds of said county.
 Witness my hand and seal of County affixed.

By

Recording Officer
Deputy

And it is understood and agreed between said parties that time is of the essence of this contract, and in case the buyer shall fail to make the payments above required, or any of them, punctually within ten days after the time limited therefor, or fail to keep any agreement herein contained, then the seller at his option shall have the following rights: (1) to declare this contract null and void, (2) to declare the whole unpaid principal balance of said purchase price with the interest thereon of once due and payable and/or (3) to foreclose this contract by suit in equity, and in any of such cases, all rights and interest created or then existing in favor of the buyer as against the seller hereunder shall utterly cease and determine and the right to the possession of the premises above described and all other rights acquired by the buyer hereunder shall revert to and rest in said seller without any act or account of the purchase of said property as absolutely, fully and perfectly as if this contract and such payments had never been made, and in case of such default all payments theretofore made on this contract are to be retained by and belong to said seller as the agreed and reasonable rent of said premises up to the time of such default. And the said seller, in case of such default, shall have the right immediately, or at any time thereafter, to enter upon the land aforesaid, without any process of law, and take immediate possession thereof, together with all the improvements and appurtenances thereon or thereto belonging.

The buyer further agrees that failure by the seller at any time to require performance by the buyer of any provision hereof shall in no way affect his right hereunder to enforce the same, nor shall any waiver by said seller of any breach of any provision hereof be held to be a waiver of any succeeding breach of any such provision, or as a waiver of the provision itself.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 8,500.00.

NOTE—The sentence between the symbols (), if not applicable, should be deleted. See ORS 93.030.

In case suit or action is instituted to foreclose this contract or to enforce any of the provisions hereof, the buyer agrees to pay such sum as the court may adjudge reasonable as attorney's fees to be allowed plaintiff in said suit or action and if an appeal is taken from any judgment or decree of the trial court, the buyer further promises to pay such sum as the appellate court shall adjudge reasonable as plaintiff's attorney's fees on such appeal.

In construing this contract, it is understood that the seller or the 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 provisions hereof apply equally to corporations and to individuals.

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

Frank E. McBain, Jr.

Betty J. McBain

Gary J. Terpening

Linda M. Terpening

NOTE—The sentence between the symbols (), if not applicable, should be deleted. See ORS 93.030.

STATE OF OREGON,

County of Klamath

September 19, 1976

STATE OF OREGON, County of

19

Personally appeared

and

Personally appeared the above named Gary J. Terpening and Linda M. Terpening, husband and wife

and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:

(OFFICIAL SEAL)

Notary Public for Oregon

My commission expires 6-13-80

Before me:

Notary Public for Oregon

My commission expires:

(OFFICIAL SEAL)

Section 4 of Chapter 618, Oregon Laws 1975, provides:

"(1) All instruments contracting to convey fee title to any real property, at a time more than 12 months from the date that the instrument is executed and the parties are bound, shall be acknowledged, in the manner provided for acknowledgment of deeds, by the owner of the title being conveyed. Such instruments, or a memorandum thereof, shall be recorded by the conveyer not later than 15 days after the instrument is executed and the parties are bound thereby.

"(2) Violation of subsection (1) of this section is a Class B misdemeanor."

(DESCRIPTION CONTINUED)

WASHINGTON
STATE OF OREGON

County of San Juan

FORM NO. 23 — ACKNOWLEDGMENT
STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

BE IT REMEMBERED, That on this 26th day of August, 1976, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Frank E. McBain, Jr. and Betty J. McBain, husband and wife

known to me to be the identical individual^s described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public for Oregon, Washington

My Commission expires Sept. 1, 1978

"formerly Yvonne Olson"

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 3rd day of SEPTEMBER A.D., 1976 at 10:46 o'clock A.M., and duly recorded in Vol. 176 of DEEDS on Page 13801.

FEE \$ 6.00

WM. D. MILNE, County Clerk

By Hazel Drager Deputy