

25047

CONTRACT

2104

Vol. 77

THIS AGREEMENT, made and entered into this 17

day of September, 1975, by and between DONALD B. BRAY and PEGGY M. BRAY, Husband and wife, hereinafter called Seller, and HARRY WARD BEARD HAND, hereinafter called Purchaser;

W I T N E S S E T H:

1. Seller agrees to sell to Purchaser for the price and on the terms and conditions set forth below, that certain real property and all improvements, situated in Klamath County, State of Oregon, described as follows:

Lot 2 in Block 5 of BUENA VISTA ADDITION to the City of Klamath Falls, Oregon, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

SUBJECT TO:

1. Reservations, restrictions, rights of way and easements of record and those apparent on the land.

2. Taxes for Fiscal Year 1975-76 are now a lien, but not yet payable.

2. Purchase Price. Purchaser promises to pay as the total purchase price for the property the sum of \$10,000.00 which shall be paid in ^{Monthly} ~~Monthly~~ installments of not less than \$100.00, including interest at the rate of 9-1/2% per annum. The first of such installments to be paid on or before the 10 day of November 1975, and subsequent installments to be paid on or before the 10 day of each and every month thereafter until both principal and interest shall be paid in full.

3. Taxes and Liens. All taxes, liens and assessments which are levied against the property shall be prorated between the Seller and Purchaser as of the date of closing. Purchaser

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agrees to pay thereafter, when due, all taxes and assessments which are hereafter levied against the property and to keep the property free from all public, municipal and statutory liens which may be thereafter lawfully imposed upon the premises.

4. Possession. Purchaser shall be entitled to possession of the property from and after the date of this agreement. Provided, however, that Seller and Seller's agents may enter upon the property at reasonable times for the purpose of inspecting the property.

5. Maintenance and Insurance. Commencing with the possession date and thereafter and at all times under this contract, Purchaser shall with respect to the property do the following:

(a) Keep all buildings and other improvements now existing or which shall hereafter be placed on the property in good condition and repair.

(b) Purchaser shall have the right to construct or install improvements upon the property subject only to Seller's approval of construction plans.

(c) Promptly comply with all the laws, ordinances, regulations, directions and rules and regulations of governmental agencies, authorities applicable to the use or occupancy of the property and in this connection, promptly make all the required repairs, alterations and additions.

(d) Purchaser shall keep all improvements then existing or which shall thereafter be placed on the property insured against fire and other casualties covered by a standard policy of fire insurance with extended coverage endorsements. The policy shall be written to the full replacement value with loss payable to the Seller and Purchaser as their respective interests may appear and certificates evidencing the policy shall be delivered to the Seller and shall contain a stipulation providing that coverage

will not be cancelled or diminished without a minimum of ten (10) days written notice to the Seller. In the event of a loss, Purchaser shall give immediate notice to Seller. Seller may make proof of loss if Purchaser fails to do so within fifteen (15) days of the casualty.

6. Covenants of Seller. Seller covenants that Seller is the owner of a good and marketable title to the property free and clear of all liens, and encumbrances, except reservations, restrictions, rights of way, easements of record and those apparent on the land and the restrictions set forth above, and that they will execute a Warranty Deed to the property, free and clear of all encumbrances, except as hereinabove stated, said deed to be executed by Seller with Purchaser as the Grantee.

7. Title Insurance. Within 30 days from the date of this Contract, Seller shall furnish to the escrow holder a Purchaser's Title Insurance Policy in the amount of \$10,000.00, insuring Purchaser against loss or damage sustained by Purchaser by reason of the unmarketability of Seller's title or liens or encumbrances, thereon, excepting matters in the usual printed exceptions, in such title insurance policies and reservations, restrictions, rights of way, easements of record and those apparent on the land and encumbrances, except as hereinabove stated.

8. Default. Time is of the essence of this contract, a default shall occur if:

(a) Purchaser fails to make any payment within ten (10) days after it is due.

(b) Purchaser fails to perform any other obligation imposed by this contract and does not correct or commence correction of such failure within thirty (30) days after receipt of written notice from Seller specifying the manner in which Purchaser is in default; or

(c) Purchaser becomes insolvent, a receiver is appointed to take possession of all or a substantial part of Purchaser's

properties, Purchaser makes an assignment for the benefit of creditors or files a voluntary petition in bankruptcy, or Purchaser is the subject to an involuntary petition in bankruptcy, or Purchaser is the subject of an involuntary petition in bankruptcy which is not dismissed within 90 days. If Purchaser consists of more than one person or entity, the occurrence of any of these events as to any one such person or entity shall constitute a default hereunder.

9. In the event of a default, Seller may take any one or more of the following steps:

- (a) Declare the entire balance of the purchase price and interest immediately due and payable;
- (b) Foreclose this contract by suit in equity;
- (c) Specifically enforce the terms of this contract by suit in equity;
- (d) Declare this contract null and void as of the date of the breach and retain as liquidated damages the amount of the payments previously made hereunder. In such event, all of the right, title and interest of Purchaser to the property shall revert and be vested in Seller without any act of re-entry or without any other act by Seller to be performed, and Purchaser agrees to peaceably surrender the property to the Seller. Should Purchaser fail to so surrender the property to the Seller. Should Purchaser fail to so surrender the property, Seller may at his option, treat Purchaser as a tenant holding over unlawfully after the expiration of a lease and Purchaser may be ousted and removed as such.

10. The remedies provided above shall be nonexclusive and in addition to any other remedies provided by law.

11. Seller shall be entitled to the appointment of a receiver as a matter of right whether or not the apparent value of the property exceeds the amount of the balance due hereunder, and any receiver appointed may serve without bond. Employment by Seller shall disqualify a person from serving as receiver. Upon taking possession of all or any part of the property the receiver may:

(a) Use, operate, manage and control and conduct business on property and make expenditures for all maintenance and improvements as in its judgment are proper.

(b) Collect all rents, revenues, income, issues and management.

(c) At Seller's option, complete any construction in progress on the property, and in that connection pay bills, borrow funds, employ contractors and make any changes in plans or specifications as Seller may deem appropriate.

If the revenues produced by the property are insufficient to pay expenses, the receiver may borrow, from Seller or otherwise, such sums as it deems necessary for the purposes stated in this paragraph, and repayment of such sums shall be secured by this contract. The amounts borrowed or advanced shall bear interest at the same rate as the balance of the purchase price hereunder from the date of expenditure until repaid and shall be payable by Purchaser on demand.

12. Representations and Condition of Property. Purchaser accepts the land, buildings, improvements and all other aspects of the property in their present condition, as is, including latent defects, without any representations or warranties, expressed or implied, unless they are in writing signed by Seller. Purchaser agrees that they have ascertained, from sources other than Seller,

the applicable zoning, building and housing and other regulatory ordinances and laws and that they have purchased the property with full awareness of these ordinances and laws as they may affect the present use or any intended future use of the property, and Seller has made no representations with respect thereto.

13. Notice. Any notice under this Contract shall be in writing and shall be effective when actually delivered or when deposited in the mail, addressed to the parties at the addresses stated in this contract, or such other addresses as either party may designate by written notice to the other.

After October 10, 1975, any notice to Purchaser should be sent to the following address: 910 Hawks.

14. Waiver. Failure by Seller at any time to require performance of any provision of this contract shall not limit the right of Seller to enforce the provision, nor shall any waiver by Seller of any breach of any provision be a waiver of any succeeding breach of that provision or a waiver of that provision itself or any other provisions.

15. Costs and Attorneys Fees. In the event suit or action is instituted to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party such sum as the Court may adjudge reasonable as attorneys fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.

16. Successor Interests. This Contract shall be binding upon and inure to the benefit of the parties, their successors and assigns, but no interest of Purchaser shall be assigned, subcontracted or otherwise transferred, voluntarily or involuntarily, without the prior written consent of Seller. Consent by Seller to one transfer shall not constitute consent to other transfers or waiver of this section. Any attempted assignment in violation of this

2110

provision shall be void and of no effect with respect to Seller.

As a condition to sale, Seller may elect to increase the interest rate by 0 percent per annum from the date of such transfer. Any such increase in interest shall entitle the Seller to increase monthly payments hereunder so as to retire the obligation within the stipulated time provided for herein.

17. Number, Gender and Captions. As used herein the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this contract.

IN WITNESS WHEREOF, the parties have caused this contract to be executed in duplicate as of the day and year first above written.

SELLERS:

Donald B. Bray

Peggy M. Bray

PURCHASER:

Harry W. B. Hand

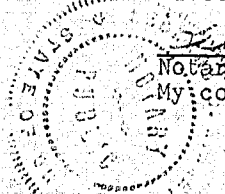
STATE OF OREGON)
County of KLAMATH)

September 17, 1975

Personally appeared the above named DONALD B. & PEGGY M. BRAY and HARRY W. B. HAND

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

Before me:



Robert Leonard Kinney
Notary Public for Oregon
My commission expires 7/28/78

Robert Leonard Kinney
1515 East Main
Astoria

CONTRACT, PAGE SEVEN
STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 4th day of FEBRUARY A.D., 1977 at 8:53 o'clock A M., and duly recorded in Vol. M 77 of DEEDS on Page 2104.

FEE \$ 18.00

WM. D. MILNE, County Clerk,
By Hazel Dugan Deputy