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CONTRACT—REAL ESTATE

Vol. 77 Page 10889

THIS CONTRACT, Made this 21st day of June, 1977, between Thomas U. Berryessa and Julia M. Berryessa, husband and wife, hereinafter called the seller, and Roderick N. Dreyer and Alice V. Dreyer, husband and wife, 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: Lot 6 in Block 3 of BRYANT TRACTS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, EXCEPTING that portion thereof conveyed to the State of Oregon, by and through its State Highway Commission, by deed recorded on page 111, Vol. 245 of Deed records of Klamath County, Oregon.

Subject, however, to the following:

1. The premises herein described are within and subject to the statutory powers, including the power of assessment, of Enterprise Irrigation District.
2. The premises herein described are within and subject to the statutory powers, including the power of assessment, of South Suburban Sanitary District.
3. Reservations and restrictions, including the terms and provisions thereof, as contained in Deed recorded January 31, 1942 in Volume 14, page 549, Deed Records of Klamath County, Oregon, J. Frank Bryant, et ux to A. J. Petts, to-wit:

"excepting and reserving to the first parties their heirs and assigns, the right at any time to construct, build and erect (for continuation of this contract see reverse side of this document)

for the sum of Seventeen Thousand and No/100ths-----Dollars (\$17,000.00...) (hereinafter called the purchase price), on account of which Two Thousand and No/100ths-----Dollars (\$ 2,000.00) 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: \$15,000.00) to the order of the seller in monthly payments of not less than ONE HUNDRED FIFTY AND NO/100THS-----Dollars (\$150.00) each, or more, prepayment without penalty, and \$500.00 on October 1, 1977 and \$500.00 on February 1, 1978, these two payments of \$500.00 shall be in addition to the regular monthly payments of \$150.00 as set forth above payable on the 21st day of each month hereafter beginning with the month of July, 1977, 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 9% per cent per annum from June 21, 1977 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 prorated 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 an organization or for the buyer to be used in part or in whole for business or commercial purposes other than agricultural purposes.

The buyer shall be entitled to possession of said lands on 1977, 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 hereafter 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 on or 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, 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 Stevens-Neess Form No. 1308 or similar unless the contract will become a first lien to finance the purchase of a dwelling in which event use Stevens-Neess Form No. 1307 or similar.

Thomas U. Berryessa

SELLER'S NAME AND ADDRESS

Roderick N. Dreyer

BUYER'S NAME AND ADDRESS

After recording return to:

MTC M.H.

NAME, ADDRESS, ZIP

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

First Federal

NAME, ADDRESS, ZIP

STATE OF OREGON,

County of

I certify that the within instrument was received for record on the day of 1977, 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.

SPACE RESERVED FOR RECORDER'S USE

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 of 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 at 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 vest in said seller without any act of re-entry, or any other act of said seller to be performed and without any right of the buyer of return, reclamation or compensation for moneys paid on 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 therein 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 \$ 17,000.00. ~~However, the actual consideration consists of or includes other property or value given or promised which is the whole consideration indicated which is~~

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.

*Thomas U. Berryessa*  
Thomas U. Berryessa  
*Julia M. Berryessa*  
Julia M. Berryessa

*Roderick N. Dreyer*  
Roderick N. Dreyer  
*Alice V. Dreyer*  
Alice V. Dreyer

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

STATE OF OREGON, )  
County of Klamath ) ss.  
June , 19 77

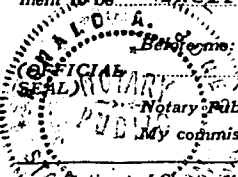
STATE OF OREGON, County of ) ss.  
19

Personally appeared and

who, being duly sworn, each for himself and not one for the other, did say that the former is the president and that the latter is the secretary of

Personally appeared the above named  
Thomas U. Berryessa,  
Julia M. Berryessa, Roderick N.  
Dreyer and Alice V. Dreyer  
and acknowledged the foregoing instrument to be their voluntary act and deed.

and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.  
Before me:



Notary Public for Oregon  
My commission expires 5/26/78

Notary Public for Oregon  
My commission expires:

(OFFICIAL SEAL)

Section 4 of Chapter 518, 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, as a memorandum thereof, shall be recorded by the conveyor 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)

ditches, telephone lines, telegraph lines and electric power lines in and upon said premises, and to keep and maintain the same, said right of way to be for the benefit of the lands and premises adjoining the above described land."

4. Reservations and restrictions, including the terms and provisions thereof, as contained in Deed recorded February 2, 1951 in Volume 245, page 111, Deed Records of Klamath County, Oregon, Gerald A. Weatherholt, et ux to State of Oregon, by and through its State Highway Commission.

5. Trust Deed, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

Dated: February 28, 1968

Recorded: March 4, 1968 in Volume M68, page 1787, Microfilm Records of Klamath County, Oregon.

Amount: \$5,325.00

Grantor: William N. Little and Sandra F. Little, husband and wife,

Trustee: William Ganong

Beneficiary: First Federal Savings and Loan Association of Klamath Falls, Oregon, which Buyers do not assume and agree to pay and Sellers further covenant to and with Buyers that the said prior mortgage shall be paid in full prior to, or at the time this contract is fully paid and that said above described real property will be released from the lien of said mortgage upon payment of this contract.

6. Unrecorded Contract of Sale dated October 20, 1970, between William N. Little and Sandra F. Little, husband and wife, as Sellers, and Art Robison and Viola Robison, husband and wife, as Buyers, and assigned by instrument dated February 26, 1973 from Art Robison and Viola Robison, husband and wife, Assignors, to Thomas U. Berryessa and Julia M. Berryessa, husband and wife, as Assignees, and Sellers further covenant (for continuation of this Contract see attached Exhibit "A")

## EXHIBIT "A"

10881

to and with Buyers that the said prior Contract shall be paid in full prior to, or at the time this contract is fully paid and that said above described real property will be released from the lien of said mortgage upon payment of this contract. It is further understood and agreed that the taxes and fire insurance premiums shall be paid by Sellers on Buyers' behalf as they become due and the escrow agent is authorized to add the taxes and fire insurance back to the balance of the Contract upon presentation of paid receipts to the escrow holder. Said amounts so added to bear interest at the rate provided herein. Upon payment in full of the Trust Deed dated February 28, 1968 Buyers shall be responsible for their own taxes and fire insurance premiums.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of MOUNTAIN PIPE COthis 21st day of JUNE A. D. 1977, at 1:00 o'clock P.M. orduly recorded in Vol. M77, of DEEDS on Page 10889

FEE \$ 9.00

Wm D. MILNE, County Clerk

*[Signature]*